EXHIBIT A

Contact

www.linkedin.com/in/carolyn-blankenship (LinkedIn)

Top Skills

Intellectual Property
Licensing
Mergers & Acquisitions

Carolyn Blankenship

General Counsel, Intellectual Property, Innovation and Product, Thomson Reuters
New York

Summary

A strategic, insightful and creative leader with a proven record of achieving business objectives in an emerging technology environment, including SaaS, artificial intelligence/machine learning and blockchain/fintech; a trusted adviser with the experience and judgment to assess risk in a practical manner while keeping the bigger picture in mind.

Experience

Thomson Reuters
12 years 11 months

General Counsel, Innovation & Product
October 2018 - Present (2 years 11 months)
New York, United States

Deliver strategic advice on multi-faceted innovation, litigation, and product development issues, including artificial intelligence/machine learning, data ethics, fintech, digital accessibility and intellectual property. Provide legal advice to C-Suite and business groups relating to a host of SaaS content-forward technology products. Articulate the intellectual property, artificial intelligence, and open-source strategy for the company. Monitor legislative/regulatory developments, while participating in public policy initiatives aimed at addressing developments that impact the organization.

Senior Vice President, Associate General Counsel, Intellectual Property
October 2008 - October 2018 (10 years 1 month)

Princeton University
Visiting Lecturer
January 2018 - Present (3 years 8 months)
Princeton, New Jersey

Reuters
Vice President, Principal Legal Counsel, Intellectual Property

April 2001 - October 2008 (7 years 7 months)
New York, United States

Priceline
Vice President, Intellectual Property Counsel
April 2000 - April 2001 (1 year 1 month)
Norwalk, Connecticut, United States

Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates
Senior Associate
March 1999 - April 2000 (1 year 2 months)
New York, New York, United States

Education

Harvard University
b.a., Biology

MIT Sloan School of Management
Certification, Artificial Intelligence: Implications for Business Strategy

Massachusetts Institute of Technology

Sandra Day O'Connor College of Law at Arizona State University
j.d., Law

EXHIBIT B

Ghaffari, Kayvan

From: McKeown, Megan L. <megan.mckeown@kirkland.com>
Sent: Thursday, August 19, 2021 1:08 PM
To: Ghaffari, Kayvan
Cc: Simmons, Joshua L.; ROSS Lit Team; Parker, Warrington; *sobyrne@potteranderson.com; 'dmoore@potteranderson.com'; *JBlumenfeld@MNAT.com; mflynn@mnat.com; Cendali, Dale M.; #Thomson-Ross
Subject: RE: TR v. ROSS -- Designated House Counsel

External Email

Kayvan,

We can discuss this issue further on the meet and confer. I assume you meant that your team is available on Tuesday from 11 am to 12 **pm** PT, not 12 **am** PT. Assuming that is correct, our team is available at that time too.

Below is a dial-in for the call on **Tuesday, August 24 at 11:00 am PT**:

Dial in: 1-866-331-1856
Conference code: 23219640#

Thanks,

Megan

Megan L. McKeown

KIRKLAND & ELLIS LLP
609 Main St, Houston, TX 77002
T +1 713 836 3499
F +1 713 836 3601

megan.mckeown@kirkland.com

From: Ghaffari, Kayvan <KGhaffari@crowell.com>
Sent: Wednesday, August 18, 2021 11:52 PM
To: McKeown, Megan L. <megan.mckeown@kirkland.com>
Cc: Simmons, Joshua L. <joshua.simmons@kirkland.com>; ROSS Lit Team <Rosslitteam@crowell.com>; Parker, Warrington <WParker@crowell.com>; *sobyrne@potteranderson.com <sobyrne@potteranderson.com>; 'dmoore@potteranderson.com'; *JBlumenfeld@MNAT.com <JBlumenfeld@MNAT.com>; mflynn@mnat.com; Cendali, Dale M. <dale.cendali@kirkland.com>; #Thomson-Ross <thomson-ross@kirkland.com>
Subject: Re: TR v. ROSS -- Designated House Counsel

Megan,

Plaintiffs have not explained why it is necessary for Ms. Blankenship, the General Counsel of a self-proclaimed "competitor" of ROSS, to see ROSS's highly confidential information. To date, your only explanation is she is keenly interested in this case and needs to advise the client on litigation matters. But Thomson Reuters has a large legal team capable of serving that role and there is nothing unique about Ms. Blankenship to support Plaintiffs' demand. For example, Ms. Blankenship does not appear to have any unique copyright or antitrust experience. Rather, Ms. Blankenship provides advice to the business on various issues, including on artificial

intelligence technology and potential acquisitions.

While you repeatedly state Ms. Blankenship provides "legal advice" to competitive business decision-makers, that is still advice and Ms. Blankenship is still involved in the competitive decision-making process. See e.g., PhishMe, Inc. v. Wombat Sec. Techs., Inc., 2017 WL 4138961, at *3 (D. Del. Sept. 8, 2017) (quoting U.S. Steel Corp. v. United States, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984)) (stating that under Delaware case law, competitive decision-making is defined as "counsel's activities, association, and relationship with a client that are such as to involve counsel's advice and participation in any or all of the client's decisions (pricing, product design, etc.) made in light of similar or corresponding information about a competitor"). Moreover, your representations appear at odds with Ms. Blankenship's public statements about her role at Thomson Reuters. As one example, her LinkedIn page describes her role "deliver[ing] strategic advice" on artificial intelligence/machine learning and "articulat[ing] the intellectual property, artificial intelligence, and open-source strategy for the company." Her strategic role is not surprising given that Ms. Blankenship holds a certificate from the Massachusetts Institute of Technology, Sloan School of Management, regarding the implications of artificial intelligence for business strategy. Given the conflicting information, ROSS is unable to validate your representations regarding Ms. Blankenship's roles and responsibilities as General Counsel.

As to her review of ROSS's confidential information produced in West Publishing Co. v. LegalEase Solutions, LLC litigation, ROSS remains concerned.

ROSS is available to confer next Tuesday between 11-12 am PT or Wednesday from 12:30-2:30 pm PT.

ROSS reserves all rights.

Best,
KG

On Aug 18, 2021, at 10:26, McKeown, Megan L. <megan.mckeown@kirkland.com> wrote:

External Email

Hi Kayvan,

You have not responded to my email below requesting a final meet and confer regarding Ms. Blankenship's designation so that we can raise the issue with the Court. Please let us know today some times that your team is available.

Thanks,

Megan

Megan L. McKeown

KIRKLAND & ELLIS LLP
609 Main St, Houston, TX 77002
T +1 713 836 3499
F +1 713 836 3601
---
megan.mckeown@kirkland.com<mailto:megan.mckeown@kirkland.com>

From: McKeown, Megan L. <megan.mckeown@kirkland.com>

Sent: Thursday, August 12, 2021 2:05 PM
To: Ghaffari, Kayvan <KGhaffari@crowell.com>; Simmons, Joshua L. <joshua.simmons@kirkland.com>
Cc: ROSS Lit Team <Rosslitteam@crowell.com>; Parker, Warrington <WParker@crowell.com>; *sobyrne@potteranderson.com <sobyrne@potteranderson.com>; 'dmoore@potteranderson.com'; *JBlumenfeld@MNAT.com <JBlumenfeld@MNAT.com>; mflynn@mnat.com; Cendali, Dale M. <dale.cendali@kirkland.com>; #Thomson-Ross <thomson-ross@kirkland.com>
Subject: RE: TR v. ROSS -- Designated House Counsel

Dear Kayvan,

Your communications regarding both our conversation and the LegalEase litigation are inaccurate. I hope that they are good faith misunderstandings, but your mischaracterization of our telephone discussion last week gives the impression that ROSS is attempting to gain a litigation advantage by misrepresenting the facts. To be clear, I never stated that Ms. Blankenship "plays a strategic role on artificial intelligence and machine learning technology at Thomson Reuters" or that she "advises executives on competitive business decisions." As we have repeatedly said, her role is to provide legal advice related to artificial intelligence/machine learning, etc. She simply does not provide advice on competitive or business decisions.

As to her review of ROSS's documents produced in the West Publishing Co. v. LegalEase Solutions, LLC litigation, I can confirm that she did review those documents. Yet, despite your claim that "Ms. Blankenship was not permitted to review ROSS's confidential information pursuant to the protective order entered into in that matter," there was nothing improper or surprising about that. As you note, Paragraph 4(e) of the protective order in the LegalEase litigation states that "in-house counsel responsible for the Litigation on behalf of a party to the Litigation" can review "Confidential" information, as well as "Highly Confidential" information. See Dkt. 28 at ¶¶ 4-5. It does not say in-house counsel must be "an employee of a party" to the Litigation. This language was intentional, and, in fact, was specifically discussed and negotiated with LegalEase's counsel with the understanding that Ms. Blankenship would have access to designated documents pursuant to that language. Thomson Reuters and West Publishing share in-house counsel, which makes sense because West does not have a separate in-house legal department. For that reason, Ms. Blankenship was the in-house counsel responsible for the LegalEase litigation on behalf of West Publishing and was entitled to see confidential material pursuant to the protective order. That relationship couldn't have been surprising to ROSS given that, among other things, Mr. Giuliano (who also works for Thomson Reuters) attended the 30(b)(6) deposition of ROSS without objection and despite ROSS designating portions of the transcript of the deposition as Highly Confidential under the protective order. ROSS also never asked West's counsel in the LegalEase litigation to identify the in-house counsel who would have access to ROSS's documents pursuant to the protective order before producing its documents (even though ROSS's counsel had inquired about other aspects of the protective order).

We trust that this email clarifies the LegalEase litigation issue for you. It also appears that we are at an impasse with regard to Ms. Blankenship being given access to documents marked highly confidential in this litigation. Please let us know when your team (including Delaware counsel) is available to meet and confer on this issue so that we can raise it with the Court.

Finally, during our call, you confirmed that (i) ROSS does not object to Ms. Blankenship seeing merely confidential information at a minimum, and (ii) that ROSS would de-designate portions of its interrogatory responses by Thursday, August 5. We have not received ROSS's de-designated interrogatory responses. Please send them.

Regards,

Megan

Megan L. McKeown

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T +1 713 836 3499
F +1 713 836 3601
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megan.mckeown@kirkland.com<mailto:megan.mckeown@kirkland.com>

From: Ghaffari, Kayvan <KGhaffari@crowell.com<mailto:KGhaffari@crowell.com>>
Sent: Tuesday, August 10, 2021 5:38 PM
To: Simmons, Joshua L. <joshua.simmons@kirkland.com<mailto:joshua.simmons@kirkland.com>>; McKeown, Megan L. <megan.mckeown@kirkland.com<mailto:megan.mckeown@kirkland.com>>
Cc: ROSS Lit Team <Rosslitteam@crowell.com<mailto:Rosslitteam@crowell.com>>; Parker, Warrington <WParker@crowell.com<mailto:WParker@crowell.com>>; *sobyrne@potteranderson.com<mailto:*sobyrne@potteranderson.com> <sobyrne@potteranderson.com<mailto:sobyrne@potteranderson.com>>; 'dmoore@potteranderson.com'; *JBlumenfeld@MNAT.com<mailto:*JBlumenfeld@MNAT.com> <JBlumenfeld@MNAT.com<mailto:JBlumenfeld@MNAT.com>>; mflynn@mnat.com<mailto:mflynn@mnat.com>; Cendali, Dale M. <dale.cendali@kirkland.com<mailto:dale.cendali@kirkland.com>>; #Thomson-Ross <thomson-ross@kirkland.com<mailto:thomson-ross@kirkland.com>>
Subject: RE: TR v. ROSS -- Designated House Counsel

Megan,

I am following up on my email below regarding your representation that Ms. Blankenship reviewed ROSS's confidential materials produced in the separate matter where Thomson Reuters was not a party to the action. See West Publishing Co. v. LegalEase Solutions, LLC, Case No. 18-cv-01445 (DSD/ECW) (D. Minn.) ("LegalEase Matter"). Please us know in writing no later than Thursday, August 12, 2021 at 6:00 pm EST if you deny that Ms. Blankenship reviewed ROSS's confidential information produced in the LegalEase Matter. If we do not hear from you by then, we will understand your silence to be confirmation that Ms. Blankenship did review ROSS's confidential documents produced in the LegalEase Matter.

Thanks,
KG

From: Ghaffari, Kayvan
Sent: Thursday, August 5, 2021 11:41 AM
To: Simmons, Joshua L. <joshua.simmons@kirkland.com<mailto:joshua.simmons@kirkland.com>>; McKeown, Megan L. <megan.mckeown@kirkland.com<mailto:megan.mckeown@kirkland.com>>
Cc: ROSS Lit Team <Rosslitteam@crowell.com<mailto:Rosslitteam@crowell.com>>; Parker, Warrington <WParker@crowell.com<mailto:WParker@crowell.com>>; *sobyrne@potteranderson.com<mailto:*sobyrne@potteranderson.com> <sobyrne@potteranderson.com<mailto:sobyrne@potteranderson.com>>; 'dmoore@potteranderson.com'; *JBlumenfeld@MNAT.com<mailto:*JBlumenfeld@MNAT.com> <JBlumenfeld@MNAT.com<mailto:JBlumenfeld@MNAT.com>>; mflynn@mnat.com<mailto:mflynn@mnat.com>; Cendali, Dale M. <dale.cendali@kirkland.com<mailto:dale.cendali@kirkland.com>>; #Thomson-Ross <thomson-ross@kirkland.com<mailto:thomson-ross@kirkland.com>>
Subject: RE: TR v. ROSS -- Designated House Counsel

Megan,

I write to follow-up from our call yesterday regarding Plaintiffs' designation of Carolyn Blankenship. You noted that, while Ms. Blankenship does not make certain business decisions, Ms. Blankenship nonetheless plays a strategic role on artificial intelligence and machine learning technology at Thomson Reuters and advises executives on competitive business decisions. Your representations confirm that Ms. Blankenship is precisely the type of in-house counsel who advises and/or participates in the client's decision-making process. See e.g., PhishMe, Inc. v. Wombat Sec. Techs., Inc., 2017 WL 4138961, at *3 (D. Del. Sept. 8, 2017) (quoting U.S. Steel Corp. v. United States, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984) (stating that under Delaware case law, competitive decision-making is defined as "counsel's activities, association, and relationship with a client that are such as to involve counsel's advice and participation in any or all of the client's decisions (pricing, product design, etc.) made in light of similar or corresponding information about a competitor"). Simply because Ms. Blankenship oversees this litigation and seeks to review ROSS's confidential document does not alter that outcome.

In addition, ROSS is troubled by your representation that Ms. Blankenship has already reviewed ROSS's confidential information produced in the separate matter West Publishing Co. v. LegalEase Solutions, LLC, Case No. 18-cv-01445 (DSD/ECW) (D. Minn.). Ms. Blankenship was not permitted to review ROSS's confidential information pursuant to the protective order entered into in that matter. See Dkt. 28. Paragraphs 4 and 5 of the protective order in that matter identifies certain individuals who may review documents designated "Confidential" and "Highly Confidential." Id. at ¶¶ 4-5. Paragraph 4(e) states "in-house counsel responsible for the Litigation on behalf of a party to the Litigation" can review "Confidential" information. Id. at ¶ 4; see also id. at ¶ 5 (stating "Highly Confidential" can be disclosed to persons designated under Paragraph 4(e)). Ms. Blankenship is General Counsel for Thomson Reuters, not West Publishing Co. West Publishing Co. was a "party to the [LegalEase] Litigation," not Thomson Reuters. Thus, Ms. Blankenship, as counsel for Thomson Reuters, not West Publishing, violated the protective order by reviewing ROSS's confidential information. ROSS is concerned that Ms. Blankenship may have misused that information for Thomson Reuters' competitive advantage, including as one example, using that information as a basis to bring a separate action against ROSS. See, e.g., Static Media LLC v. Leader Accessories LLC, No. 18-CV-330-WMC, 2019 WL 7281931, at *3 (W.D. Wis. Dec. 27, 2019) ("a protective order is not a "paper tiger" and will be enforced in accordance with Fed. R. Civ. P. 37(b)(2), which allows for the imposition of sanctions for a party's failure to obey a discovery order"; finding party in contempt for using confidential information in another lawsuit; rejecting argument that there was no harm because confidential information would inevitably been subject to discovery in the other matter); see also Errant Gene Therapeutics, LLC v. Sloan-kettering Inst. for Cancer Research, No. 15CV2044AJNRLE, 2017 WL 2418742, at *2-3 (S.D.N.Y. June 5, 2017) (imposing sanctions).

Given Ms. Blankenship's conduct with confidential materials ROSS produced in the LegalEase matter, ROSS stands by its objection to Thomson Reuters' pending designation of Ms. Blankenship as designated in-house counsel.

ROSS reserves all rights.

Best,
KG

From: Ghaffari, Kayvan
Sent: Thursday, July 22, 2021 4:31 PM
To: 'Simmons, Joshua L.' <joshua.simmons@kirkland.com<mailto:joshua.simmons@kirkland.com>>
Cc: ROSS Lit Team <Rosslitteam@crowell.com<mailto:Rosslitteam@crowell.com>>; Parker, Warrington <WParker@crowell.com<mailto:WParker@crowell.com>>;

*sobyrne@potteranderson.com<mailto:*sobyrne@potteranderson.com>
<sobyrne@potteranderson.com<mailto:sobyrne@potteranderson.com>>; 'dmoore@potteranderson.com';
*JBlumenfeld@MNAT.com<mailto:*JBlumenfeld@MNAT.com>
<JBlumenfeld@MNAT.com<mailto:JBlumenfeld@MNAT.com>>;
mflynn@mnat.com<mailto:mflynn@mnat.com>; Cendali, Dale M.
<dale.cendali@kirkland.com<mailto:dale.cendali@kirkland.com>>; #Thomson-Ross <thomson-ross@kirkland.com<mailto:thomson-ross@kirkland.com>>
Subject: RE: TR v. ROSS -- Designated House Counsel

Dear Josh,

Pursuant to Paragraph 7.5(b) of the Protective Order, ROSS objects to the designation of Ms. Blankenship. Your email confirms that Ms. Blankenship is associated with and advises Thomson Reuters on business decisions relating to artificial intelligence and machine learning technology, including potential mergers and acquisitions. Thomson Reuters has sued a "competitor" over its artificial intelligence and machine learning technology. In addition, Ms. Blankenship has stated publicly, through lectures and publications, that she plays an active role in the directing the business's IP licensing strategy. These sorts of responsibilities place her directly within the decision-making process.

Thomson Reuters's belief that Ms. Blankenship may not "make" business decisions is based on a misreading of the Protective Order. Paragraph 7.5(b) states that a party designating an in-house counsel must "describe[ ] the Designated House Counsel's current and reasonably foreseeable future primary job duties and responsibilities in sufficient detail to determine if the Designated House Counsel is involved, or may become involved, in any competitive business decision-making." (emphasis added.) It does not state or contemplate that any objection to a designation is limited to those who actually make a competitive business-decision. This approach is consistent with this District's interpretation of competitive decision-making as including in-house counsel who advise and/or participate in the client's decision-making process, including by playing an active role in IP licensing. See e.g., PhishMe, Inc. v. Wombat Sec. Techs., Inc., 2017 WL 4138961, at *3 (D. Del. Sept. 8, 2017) (quoting U.S. Steel Corp. v. United States, 730 F.2d 1465, 1468 n.3 (Fed. Cir. 1984) (stating that under Delaware case law, competitive decision-making is defined as "counsel's activities, association, and relationship with a client that are such as to involve counsel's advice and participation in any or all of the client's decisions (pricing, product design, etc.) made in light of similar or corresponding information about a competitor").

During discovery, ROSS will produce highly confidential documents concerning its artificial intelligence and machine learning technology. Given Ms. Blankenship's role in the development of the business's strategy on those technologies, including licensing, risk mitigation, and acquisitions, there is a significant risk that disclosing ROSS's highly confidential information could harm ROSS. As one example of the potential harm, you state that Ms. Blankenship advises the business on risk mitigation based on current law. This would necessarily involve advising the business on its own artificial intelligence and machine learning technology. If Ms. Blankenship obtains information concerning ROSS's technology, Ms. Blankenship may inadvertently disclose that information to the business in connection with her risk mitigation counseling. The potential harm to ROSS of that disclosure cannot be understated.

In addition, Thomson Reuters has not provided any information concerning Ms. Blankenship's reasonably foreseeable future primary job duties. Thus, ROSS is unable to determine whether Ms. Blankenship may become involved in further competitive business decision-making.

Finally, Thomson Reuters has separately designated Jeanpierre Giuliano to review ROSS's highly confidential information. Mr. Giuliano appears primarily responsible for managing Thomson Reuters's IP litigation, including this litigation. Because Mr. Giuliano can review ROSS's highly confidential information for purposes of this litigation, there does not appear to be any need to disclose that information to Ms. Blankenship,

especially considering the potential risk of harm to ROSS.

Please let us know if Thomson Reuters is willing to rescind its designation of Ms. Blankenship.

Thanks,
KG

From: Simmons, Joshua L. <joshua.simmons@kirkland.com<mailto:joshua.simmons@kirkland.com>>
Sent: Thursday, July 15, 2021 7:03 PM
To: Ghaffari, Kayvan <KGhaffari@crowell.com<mailto:KGhaffari@crowell.com>>
Cc: ROSS Lit Team <Rosslitteam@crowell.com<mailto:Rosslitteam@crowell.com>>; Parker, Warrington <WParker@crowell.com<mailto:WParker@crowell.com>>; *sobyrne@potteranderson.com<mailto:*sobyrne@potteranderson.com> <sobyrne@potteranderson.com<mailto:sobyrne@potteranderson.com>>; 'dmoore@potteranderson.com'; *JBlumenfeld@MNAT.com<mailto:*JBlumenfeld@MNAT.com> <JBlumenfeld@MNAT.com<mailto:JBlumenfeld@MNAT.com>>; mflynn@mnat.com<mailto:mflynn@mnat.com>; Cendali, Dale M. <dale.cendali@kirkland.com<mailto:dale.cendali@kirkland.com>>; #Thomson-Ross <thomson-ross@kirkland.com<mailto:thomson-ross@kirkland.com>>
Subject: RE: TR v. ROSS -- Designated House Counsel

External Email
Dear Kayvan,

Ms. Blankenship does not make competitive business decisions. Rather, as one would expect, she is a legal advisor. Thus, for example, the strategic advice on artificial intelligence/machine learning and support for the business's M&A activities that you reference is limited to legal advice, including advice on the state of the law, regulatory compliance, and risk mitigation based on current law. Although she interacts with those who make competitive, business decisions, her role at Thomson Reuters does not involve making decisions where ROSS's highly confidential information would be involved. Accordingly, granting her access to highly confidential information is appropriate. Please let us know whether ROSS is objecting pursuant to Paragraph 7.5(b) and the reasons for the objection, so that we can raise the issue with the Court if necessary.

Best regards,

Josh

Joshua L. Simmons

KIRKLAND & ELLIS LLP
601 Lexington Avenue, New York, NY 10022
T +1 212 446 4989
F +1 212 446 4900

He/Him/His
joshua.simmons@kirkland.com<mailto:joshua.simmons@kirkland.com>
http://www.kirkland.com/jsimmons<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.kirkland.com_jsimmons&d=DwMF_g&c=Anw7wKLFSGyH7zEzIqo-zgMRy5HE-AH-SibmOy3H7xE&r=ptTNYxuGmVcgppsHOuxSXHmoyS9ae8hJZR395dlkgdE&m=5AagDuEs0AJmQk0x0VYddT_2Owj1OMw5m8s7VYy9TOo&s=GtoYXmL7rhzQI6zFBxmXP4yEwmELO6gjdwggF3R70Pc&e=>

From: Ghaffari, Kayvan <KGhaffari@crowell.com<mailto:KGhaffari@crowell.com>>
Sent: Tuesday, July 13, 2021 6:45 PM
To: Simmons, Joshua L. <joshua.simmons@kirkland.com<mailto:joshua.simmons@kirkland.com>>; ROSS Lit Team <Rosslitteam@crowell.com<mailto:Rosslitteam@crowell.com>>; Parker, Warrington <WParker@crowell.com<mailto:WParker@crowell.com>>; *sobyrne@potteranderson.com<mailto:*sobyrne@potteranderson.com> <sobyrne@potteranderson.com<mailto:sobyrne@potteranderson.com>>; 'dmoore@potteranderson.com'
Cc: *JBlumenfeld@MNAT.com<mailto:*JBlumenfeld@MNAT.com> <JBlumenfeld@MNAT.com<mailto:JBlumenfeld@MNAT.com>>; mflynn@mnat.com<mailto:mflynn@mnat.com>; Cendali, Dale M. <dale.cendali@kirkland.com<mailto:dale.cendali@kirkland.com>>; #Thomson-Ross <thomson-ross@kirkland.com<mailto:thomson-ross@kirkland.com>>
Subject: RE: TR v. ROSS -- Designated House Counsel

Josh,

ROSS is concerned with Plaintiffs' designation of Carolyn Blankenship due to her role as General Counsel for Innovation and Technology at Thomson Reuters. Based on public statements, Carolyn appears to be involved in competitive business decision-making, especially as it relates to artificial intelligence and machine learning technology. Specifically, Carolyn has publicly stated that she provides strategic advice to the company on artificial intelligence/machine learning and is responsible in part for developing Thomson Reuters's strategy on artificial intelligence and other forms of technology, including supporting the business's M&A activities.

This is a competitor case about artificial intelligence and machine learning technology. Carolyn's review of highly confidential information as a competitive business decision-maker therefore would prejudice ROSS. However, in order to properly assess Plaintiffs' designation, ROSS requests additional information about her job duties and responsibilities in further detail, including without limitation the extent of her business advice to the company on artificial intelligence and machine learning, to enable us to determine if she is involved in any competitive business decision-making. ROSS further requests that Carolyn not possess and/or review any highly confidential information pending the parties' conferrals on this issue.

ROSS reserves all rights.

Best,
KG

From: Simmons, Joshua L. <joshua.simmons@kirkland.com<mailto:joshua.simmons@kirkland.com>>
Sent: Friday, July 9, 2021 9:36 AM
To: ROSS Lit Team <Rosslitteam@crowell.com<mailto:Rosslitteam@crowell.com>>; Parker, Warrington <WParker@crowell.com<mailto:WParker@crowell.com>>; *sobyrne@potteranderson.com<mailto:*sobyrne@potteranderson.com> <sobyrne@potteranderson.com<mailto:sobyrne@potteranderson.com>>; 'dmoore@potteranderson.com'
Cc: *JBlumenfeld@MNAT.com<mailto:*JBlumenfeld@MNAT.com> <JBlumenfeld@MNAT.com<mailto:JBlumenfeld@MNAT.com>>; mflynn@mnat.com<mailto:mflynn@mnat.com>; Cendali, Dale M. <dale.cendali@kirkland.com<mailto:dale.cendali@kirkland.com>>; #Thomson-Ross <thomson-ross@kirkland.com<mailto:thomson-ross@kirkland.com>>
Subject: TR v. ROSS -- Designated House Counsel

External Email

Counsel,

Pursuant to Paragraph 7.5(a)(1) of the Protective Order, Plaintiffs designate the following in-house counsel to receive access to ROSS's information designated as Highly Confidential under the Protective Order:

1) Name: Carolyn Blankenship

Residence: New York, New York

Job Duties: General Counsel, Innovation and Product - Oversees intellectual property litigation and provides intellectual property counseling advice related to Thomson Reuters' technology products.

2) Name: Jeanpierre Giuliano

Residence: New York, New York

Job Duties: Associate General Counsel (Innovation and Product) - Day-to-day management of intellectual property litigation, counseling, and licensing related to Thomson Reuters' technology products.

Best regards,

Josh

_____

Joshua L. Simmons

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T +1 212 446 4989
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He/Him/His
joshua.simmons@kirkland.com<mailto:joshua.simmons@kirkland.com>
http://www.kirkland.com/jsimmons<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.kirkland.com_jsimmons&d=DwMFAg&c=Anw7wKLFSGyH7zEzIqo-zgMRy5HE-AH-SibmOy3H7xE&r=6wLuA0sfNx8ADJ7WxouvsdCZjHrgtrBDDJnQ5BPTam8&m=UOlq5RLnQ-7uNaVLi-CI7JiBfszs2ASQ42p3oEije4Y&s=eHjZMVkjbrY3Su-TwCUSFWX1ZaC40vFWu2eM-1ZUESU&e=>

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EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

THOMSON REUTERS ENTERPRISE CENTRE GMBH and WEST PUBLISHING CORPORATION, Plaintiffs, v. ROSS INTELLIGENCE INC., Defendant.	)	C.A. No. 20-613 (LPS)

PLAINTIFFS THOMSON REUTERS ENTERPRISE CENTRE GMBH AND WEST PUBLISHING CORPORATION'S FIRST SET OF REQUESTS FOR PRODUCTION TO DEFENDANT ROSS INTELLIGENCE INC.

PLEASE TAKE NOTICE that pursuant to Federal Rules of Civil Procedure 26 and 34 and the Local Rules of the United States District Court for the District of Delaware (the "Local Rules" and each a "Local Rule"), Plaintiffs Thomson Reuters Enterprise Centre GmbH ("Thomson Reuters") and West Publishing Corporation ("West") (collectively "Plaintiffs"), hereby request that Defendant ROSS Intelligence Inc. ("ROSS" or "You") produce for examination, inspection, and copying by Plaintiffs, their attorneys or others acting on Plaintiffs' behalf, the documents and things set forth below at the offices of Plaintiffs' attorneys, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022, no later than thirty (30) days after service of these document requests ("Requests" and each a "Request").

DEFINITIONS

Unless otherwise defined, all words and phrases used herein shall be accorded their usual meaning and shall be interpreted in their common, ordinary sense. As used in these Requests, the words set forth below shall be defined as follows:

1. The term "ANSWER" means and refers to the answer filed by ROSS in this LITIGATION on December 13, 2020.

2. The term "AMENDED ANSWER" means and refers to the amended answer filed by ROSS in this LITIGATION on January 25, 2021.

3. The term "AMENDED COUNTERCLAIMS" means and refers to the counterclaims filed by ROSS in this LITIGATION on January 25, 2021.

4. The terms "COMMUNICATED" and "COMMUNICATION(S)" should be interpreted in their broadest sense to include without limitation all oral or written communications, including any writings, emails, or other electronically stored information as that term is defined by Federal Rule of Civil Procedure 34(a).

5. The term "COMPLAINT" means and refers to the Complaint filed by PLAINTIFFS in this LITIGATION on May 6, 2020.

6. The terms "CONCERNING" and "REFERRING OR RELATING TO" should be construed in the broadest possible sense to mean analyzing, citing, commenting upon, comprising, concerning, consisting of, constituting, containing, dealing with, describing, discussing, embodying, evidencing, identifying, involved with, mentioning, monitoring, referring to, reflecting, responding to, pertaining to, showing, stating, summarizing, or bearing any logical or factual connection with the matter discussed, as these terms are understood in the broadest sense.

7. The term "CONTRACTOR(S)" means and refers to any third parties that ROSS was, is, or considered working with to provide ROSS with TRAINING DATA, work product, or services in connection with the ROSS PLATFORM, including without limitation LEGALEASE.

8. The term "COUNTERCLAIMS" means and refers to the counterclaims filed by ROSS in this LITIGATION on December 13, 2020.

9. The term "DESCRIBE" means to state what is requested to be described, including all facts and opinions known or held by ROSS CONCERNING, relating to, or pertinent to what is requested to be described; and (i) the identity of each person or entity involved or having any knowledge of each fact or opinion that relates to what is so described; (ii) the identity of each document

evidencing the answer or response given or relating, referring or pertaining to said subject matter in any way; and (iii) all relevant or material dates and time periods, specifying the way in which said dates or time periods are pertinent to the subject matter described.

10. The term "DOCUMENT(S)" means any written, printed, typed, recorded, or graphic matter, however produced, reproduced, or stored, including the originals and all non-identical copies, whether different from the originals by reason of any notations made on such copies or otherwise, in the actual or constructive possession, custody, or control of ROSS, including without limitation contracts, letter agreements, records, correspondence, COMMUNICATIONS, electronically stored information, emails, tweets, blog or Internet forum posts or comments, text messages on portable devices, Blackberry Messenger messages, SMS messages, instant messenger messages (e.g. Skype, Slack, etc.), memoranda, handwritten notes, source code, source code comments, source repository logs, server logs, records or summaries of negotiations, records or summaries of interviews or conversations, audio or video recordings, copies of video games, all Internet-based media, photographs, corporate minutes, diaries, telephone logs, instant messaging logs, chat room logs, schedules, drawings, product storyboards, product mockups, statistical statements, work papers, disks, data cards, films, data processing files, charts, graphs, microfiche, microfilm, contracts, notices, reports, recitals, statements, worksheets, abstracts, resumes, summaries, jottings, market data, books, journals, ledgers, audits, maps, diagrams, research documents, newspapers, appointment books, desk calendars, project management charts (e.g., Gantt charts), task management records (e.g., to-do lists), expense reports, computer printout and other computer readable or electronic records, and all drafts or modifications thereof, and all non-identical copies of any such items. Any such DOCUMENT with any sheet or part thereof bearing any marks, such as initials, stamped indices, comments or notations, or any character or characters, that are not part of the signed text or photographic reproduction thereof is to be considered as a separate DOCUMENT. Where there is any question

about whether a tangible item otherwise described in these requests falls within the definition of "DOCUMENT(S)," such tangible item shall be produced.

11. The term "LEGALEASE" means and refers to LegalEase Solutions, LLC, and any of its former or current parents, subsidiaries, predecessors, successors, affiliated entities, controlled entities, joint ventures, related entities, agents, attorneys, employees, interns, representatives, assigns, directors, or officers and all other PERSONS acting or purporting to act on their behalf, including without limitation Teri Whitehead.

12. The term "LEGALEASE LITIGATION" means and refers to the lawsuit filed by PLAINTIFFS against LEGALEASE in the United States District Court for the District of Minnesota with case number 18-CV-01445.

13. The term "LEGALEASE COMPLAINT" means and refers to the Complaint filed by PLAINTIFFS in the LEGALEASE LITIGATION on May 25, 2018.

14. The term "LITIGATION" means and refers to the lawsuit filed by PLAINTIFFS against ROSS in the United States District Court for the District of Delaware with case number 20-cv-00613.

15. The term "MOTION TO DISMISS" means and refers to the motion to dismiss for failure to state a claim filed by ROSS in this LITIGATION on July 13, 2020.

16. The term "OPPOSITION" means and refers to the opposition filed by PLAINTIFFS in this LITIGATION on August 10, 2020.

17. The term "PARTIAL WITHDRAWAL" means and refers to the partial withdrawal of the motion to dismiss filed by ROSS in this LITIGATION on December 13, 2020.

18. The term "PERSON(S)" means any natural person, firm, corporation, partnership, group, association, governmental entity, or business entity.

19. The term "PLAINTIFFS" means and refers to THOMSON REUTERS and WEST.

20. The term "REPLY" means and refers to the reply filed by ROSS in this LITIGATION on August 20, 2020.

21. The terms "ROSS," "YOU," and "YOUR" mean and refer to Defendant ROSS Intelligence Inc., and any of its former or current parents, subsidiaries, predecessors, successors, affiliated entities, controlled entities, joint ventures, related entities, agents, attorneys, employees, interns, representatives, assigns, directors, or officers and all other PERSONS acting or purporting to act on their behalf, including without limitation ROSS Intelligence, Inc., the Canadian entity, Andrew Arruda, and Jimoh Ovbiagele.

22. The term "ROSS MEMOS" means and refers to any work product created or distributed by a CONTRACTOR for or to ROSS, including without limitation any "Memos" or "Legal Research Questions" as defined by Sections 1.2 and 1.3 of the "STATEMENT OF WORK II FOR ROSS BULK MEMOS" that was published by ROSS on May 7, 2020, on the website available at https://medium.com/@AndrewArruda/hold-59effcd819b0, attached hereto as **Exhibit A**.

23. The term "ROSS PLATFORM" means and refers to any and all services and products offered by ROSS, including without limitation the online legal research platform referred to as "ROSS" previously offered through the website available at https://www.rossintelligence.com/.

24. The term "SECOND AMENDED ANSWER" means and refers to the second amended answer filed by ROSS in this LITIGATION on April 12, 2021.

25. The term "STATE" means to state all relevant facts discoverable under FRCP 26(b) relating to a particular matter that is known to YOU.

26. The term "TECHNICAL FUNCTIONING" means and refers to the technological and business processes that maintained, powered, or otherwise enabled the ROSS PLATFORM,

including without limitation all underlying software, databases, servers, and other technology, and all supporting human-completed tasks, such as, but not limited to, data entry, file maintenance, or customer support activities.

27. The term "TRAINING DATA" means and refers to any material, data or sets of data used by ROSS to train any artificial intelligence algorithms or systems, including without limitation any ROSS MEMOS and WESTLAW CONTENT.

28. The term "WEST" means and refers to Plaintiff West Publishing Corporation, and any of their former or current parents, subsidiaries, predecessors, successors, affiliated entities, controlled entities, joint ventures, related entities, agents, attorneys, employees, interns, representatives, assigns, directors, or officers and all other PERSONS acting or purporting to act on their behalf.

29. The term "WEST HEADNOTES" means and refers to the proprietary text created by WEST's attorney-editors to DESCRIBE and summarize the key concepts, points of law, or facts of judicial opinions found on WESTLAW.

30. The term "WESTLAW" means and refers to PLAINTIFFS' online legal research product named Westlaw.

31. The term "WESTLAW CONTENT" means and refers to any and all WESTLAW content owned by PLAINTIFFS, including without limitation the WKNS and WEST HEADNOTES, and expressly excluding any work prepared by a United States Government officer or employee as a part of that person's official duties, including without limitations government edicts, legislative enactments, judicial decisions, or similar types of official legal materials.

32. The term "WKNS" means and refers to the taxonomy of cases, topics, legal issues, points of law, and WEST HEADNOTES created and maintained by WEST's attorney-editors for WESTLAW.

33. The words "and" and "or" shall be construed both conjunctively and disjunctively, and each shall include the other wherever such dual construction will serve to bring within the scope of a Request any PERSONS, COMMUNICATIONS, or DOCUMENTS which otherwise would not be brought within its scope.

34. The words "any" and "all" are mutually interchangeable and are meant to encompass each other.

35. The singular includes the plural and vice versa.

36. The past tense shall be construed to include the present tense and vice versa.

GENERAL INSTRUCTIONS

1. These Requests are intended to cover all DOCUMENTS in YOUR possession, custody or control, whether located at YOUR offices, home, stored via server, or at any other place. If any DOCUMENT was, but is no longer, in YOUR possession or subject to YOUR control, or in existence, state whether it (i) is missing or lost; (ii) has been destroyed; (iii) has been transferred, voluntarily or involuntarily, to others (and if so, to whom); or (iv) has been disposed of in some other manner. If YOU have reason to believe a responsive DOCUMENT is in the possession of another PERSON, STATE (i) the basis for this belief; (ii) the PERSON believed to be in possession of the responsive DOCUMENT(s); (iii) where YOU believe the responsive DOCUMENT(s) may be located; and (iv) other information as is sufficient to identify the DOCUMENTS for a subpoena *duces tecum*.

2. If a DOCUMENT that is responsive to a Request has been lost or destroyed, it should be identified as follows: (i) preparer; (ii) addressor (if different); (iii) addressee; (iv) each recipient and each person to whom distributed or shown; (v) date prepared; (vi) date transmitted (if different); (vii) date received; (viii) description of contents and subject matter; (ix) date of destruction; (x) manner of destruction; (xi) name, title, and address of the person who directed that the DOCUMENT be destroyed and (if different) the person who destroyed the DOCUMENT; (xii)

the reason for the DOCUMENT's destruction; (xiii) the names of persons having knowledge of the destruction; and (xiv) a full description of the efforts made to locate the DOCUMENT.

3. The production should include every DOCUMENT known to YOU and every such DOCUMENT that can be located or discovered by reasonably diligent efforts by YOU.

4. If any of the requested DOCUMENTS cannot be disclosed or produced in full, produce the DOCUMENTS to the extent possible, and STATE YOUR reasons for YOUR inability to produce the remainder, stating whatever information, knowledge, or belief YOU have CONCERNING the unproduced portions.

5. If any of the DOCUMENTS requested below are claimed to be privileged or are otherwise withheld, YOU are requested to provide a privilege log which identifies: (i) the date of the DOCUMENT; (ii) the identity of all PERSONS who sent, authored, signed or otherwise prepared the DOCUMENT; (iii) the identity of all PERSONS designated as addressee or copyees; (iv) a description of the contents of the DOCUMENT that, without revealing information itself privileged or protected, is sufficient to understand the subject matter of the DOCUMENT and the basis of the claim or privilege or immunity; (v) the type or nature of the privilege asserted (e.g., attorney-client privilege, work product doctrine, etc.); and (vi) for redacted DOCUMENTS only, the Bates numbers corresponding to the first and last page of any DOCUMENT redacted. To the extent e-mail is included and described on the privilege log, any e-mail chain (i.e., a series of e-mails linked together by e-mail responses and forwarding) that is withheld or redacted on the grounds of privilege, immunity or any similar claim may be logged as a single entry and identified by the most recent (i.e., top-most) e-mail. YOU shall not be required to break up an e-mail chain and log each individual e-mail separately. If, however, e-mail contained within a given chain exists separately, then YOU shall log that material in accordance with this Paragraph. If an e-mail

chain contains one or more privileged e-mails requiring redaction, the e-mail chain may be logged as a single entry and identified by the most recent redacted e-mail.

6. All DOCUMENTS or other things responsive to a Request shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond to the Request to which they are responsive.

7. All electronically stored information responsive to a Request shall be produced in black-and-white, single-page TIFF (300 dpi, Group IV) or color JPEG format. The file names of the images should correspond to the appropriate Bates number and should be accompanied by an OPT file mapping each Bates number with the associated image file. All corresponding metadata shall be produced in a DAT file, separated with consistent Concordance delimiters. All corresponding document text (extracted text or optical character recognition) information should be provided as document level text files with file names corresponding to the beginning Bates number of the document, and text files should be in plain-text format (not Unicode or UTF). Productions should be compatible with Concordance version 8.26. All electronically stored audio or audiovisual files shall be produced in their native format as maintained and retained by YOU. In addition, PLAINTIFFS reserve the right to request particular electronically stored information in another format, including native file format.

8. All electronically stored information shall be produced with the following corresponding metadata fields: APPLICATION, AUTHOR, BEGBATES, ENDBATES, BEGBATES_ATT, ENDBATES_ATT, CUSTODIAN, FILE_NAME, FILE_PATH, FILE_SIZE, EXTENSION, TEXT_FILE, NATIVEFILE, DATE_CREATED, TIME_CREATED, DATELAST_MOD, TIMELAST_MOD, SUBJECT, FROM, TO, CC, BCC, DATE_SENT, TIME_SENT, DATE_RECD, TIME_RECD, CONFIDENTIALITY, and MD5HASH.

9. Any DOCUMENT responsive to a Request should be produced in and with a file folder and other DOCUMENT (e.g., envelope, file cabinet marker) in or with which the DOCUMENT was located when this Request was served.

10. All pages of any DOCUMENT(s) now stapled or fastened together should be produced stapled or fastened together. Where DOCUMENT(s) are produced electronically, attachments shall be produced with the parent DOCUMENT(s) together as a family.

11. If it is otherwise not possible to produce any DOCUMENT called for by any Request, or if any part of any Request is objected to, the reasons for the objection should be stated with specificity as to all grounds and, for the convenience of the Court and the parties, each Request should be quoted in full immediately preceding the objection.

12. These Requests shall be deemed continuing and require further and supplemental production by YOU as and whenever YOU acquire, make, or locate additional DOCUMENTS between the time of the initial production and the time of final judgment in this LITIGATION.

DOCUMENTS TO BE PRODUCED

REQUEST FOR PRODUCTION NO. 1:

All DOCUMENTS CONCERNING the conception of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 2:

All DOCUMENTS CONCERNING the creation and development of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 3:

All DOCUMENTS CONCERNING changes to the ROSS PLATFORM from conception of the ROSS PLATFORM to today.

REQUEST FOR PRODUCTION NO. 4:

All DOCUMENTS CONCERNING all previous, current, and future versions of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 5:

All copies of previous versions of the website currently available at https://www.rossintelligence.com/.

REQUEST FOR PRODUCTION NO. 6:

All copies of all posts to www.medium.com by user Andrew Arruda (@AndrewArruda).

REQUEST FOR PRODUCTION NO. 7:

All copies of all tweets posted to www.twitter.com by user Andrew Arruda (@AndrewArruda).

REQUEST FOR PRODUCTION NO. 8:

All copies of all tweets posted to www.twitter.com by user ROSSIntel (@ROSSIntel).

REQUEST FOR PRODUCTION NO. 9:

All DOCUMENTS CONCERNING the TECHNICAL FUNCTIONING of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 10:

DOCUMENTS sufficient to identify all PERSONS who subscribe, or who previously have subscribed, to the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 11:

DOCUMENTS sufficient to provide PLAINTIFFS' counsel with log-in credentials for the ROSS PLATFORM to access its subscriber interface.

REQUEST FOR PRODUCTION NO. 12:

All technical DOCUMENTS CONCERNING the TECHNICAL FUNCTIONING of the ROSS PLATFORM, including without limitation, technical specifications, TRAINING DATA, algorithm training sets, algorithm training documentation, and user and administrator manuals.

REQUEST FOR PRODUCTION NO. 13:

All DOCUMENTS produced by ROSS in the LEGALEASE LITIGATION.

REQUEST FOR PRODUCTION NO. 14:

All DOCUMENTS sent to ROSS by CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 15:

All DOCUMENTS sent to CONTRACTORS (including without limitation LEGALEASE) by ROSS, including without limitation all COMMUNICATIONS sent by ROSS to CONTRACTORS CONCERNING TRAINING DATA or ROSS MEMOS.

REQUEST FOR PRODUCTION NO. 16:

All DOCUMENTS CONCERNING CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 17:

All DOCUMENTS CONCERNING the decision to enter into a contract with each CONTRACTOR, including without limitation any subsequent decisions to continue or modify the contract, or enter into a subsequent contract(s) with each CONTRACTOR.

REQUEST FOR PRODUCTION NO. 18:

All DOCUMENTS CONCERNING the reason ROSS entered into a contract with LEGALEASE, including without limitation any subsequent decisions to continue or modify the contract, or enter into a subsequent contract(s) with LEGALEASE.

REQUEST FOR PRODUCTION NO. 19:

All DOCUMENTS CONCERNING the materials and services LEGALEASE was to create, perform, or deliver to ROSS, including without limitation the format and structure of those materials.

REQUEST FOR PRODUCTION NO. 20:

All DOCUMENTS CONCERNING the nature and purpose of the alleged legal research LEGALEASE was to create, perform, or deliver to ROSS.

REQUEST FOR PRODUCTION NO. 21:

All DOCUMENTS CONCERNING the material and services CONTRACTORS, including without limitation LEGALEASE, created, performed, or delivered to ROSS, including without limitation the format and structure of those materials.

REQUEST FOR PRODUCTION NO. 22:

All DOCUMENTS CONCERNING how CONTRACTORS, including without limitation LEGALEASE, used WESTLAW to fulfill their obligations to ROSS (whether requested or not), including without limitation WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 23:

All DOCUMENTS CONCERNING CONTRACTORS, including without limitation LEGALEASE, providing judicial opinions downloaded from WESTLAW to ROSS, including without limitation every decision that included WEST HEADNOTES.

REQUEST FOR PRODUCTION NO. 24:

All agreements, contracts, or licenses CONCERNING TRAINING DATA for the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 25:

All DOCUMENTS CONCERNING ROSS's basis for using WESTLAW, directly or indirectly, to train any artificial intelligence algorithms, including without limitation the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 26:

All DOCUMENTS CONCERNING copyright protection of annotations to judicial opinions or other legal material, including without limitation WESTLAW and WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 27:

DOCUMENTS sufficient to show where the judicial opinions available on the ROSS PLATFORM came from, including without limitation how and when ROSS acquired them.

REQUEST FOR PRODUCTION NO. 28:

DOCUMENTS sufficient to show search queries and results on the ROSS PLATFORM from conception to today.

REQUEST FOR PRODUCTION NO. 29:

All DOCUMENTS CONCERNING ROSS's actual or potential delivery of annotations of judicial opinions to customers, including without limitation ROSS's ability to hire attorney-editors to produce such annotations.

REQUEST FOR PRODUCTION NO. 30:

All DOCUMENTS CONCERNING TRAINING DATA, including without limitation instructions on how to produce and acquire it.

REQUEST FOR PRODUCTION NO. 31:

All DOCUMENTS CONCERNING the production of TRAINING DATA, including without limitation how long and how much it would cost for ROSS to produce or secure TRAINING DATA.

REQUEST FOR PRODUCTION NO. 32:

All DOCUMENTS CONCERNING why the ROSS PLATFORM initially only offered judicial opinions in the area of bankruptcy law, including without limitation why the ROSS PLATFORM was not able to offer the whole corpus of judicial opinions.

REQUEST FOR PRODUCTION NO. 33:

All DOCUMENTS CONCERNING comparison tests between the ROSS PLATFORM and any competitor, including without limitations the invitation from CaseText to compare ROSS to WESTLAW and why ROSS declined CaseText's invitation.

REQUEST FOR PRODUCTION NO. 34:

All DOCUMENTS CONCERNING PLAINTIFFS, including without limitation WESTLAW and WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 35:

All DOCUMENTS CONCERNING ROSS's use of WESTLAW, whether directly or indirectly.

REQUEST FOR PRODUCTION NO. 36:

All DOCUMENTS CONCERNING ROSS's attempt to acquire a subscription to WESTLAW.

REQUEST FOR PRODUCTION NO. 37:

All DOCUMENTS CONCERNING WESTLAW, including without limitation WESTLAW's subscription agreement or terms of use.

REQUEST FOR PRODUCTION NO. 38:

All DOCUMENTS CONCERNING the manner in which content offered on the ROSS PLATFORM was saved, stored, or maintained for future use by ROSS or ROSS customers.

REQUEST FOR PRODUCTION NO. 39:

All DOCUMENTS CONCERNING the manner in which the material delivered by CONTRACTORS, including without limitation LEGALEASE, to ROSS was stored, maintained, and used by ROSS.

REQUEST FOR PRODUCTION NO. 40:

All DOCUMENTS CONCERNING the market for, or value of, the ROSS PLATFORM, including without limitation the features of the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 41:

All DOCUMENTS CONCERNING the market for, or value of, WESTLAW, including without limitation the features of WESTLAW and WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 42:

DOCUMENTS sufficient to identify the first date, and all subsequent dates, on which the ROSS PLATFORM made use of any material derived from WESTLAW, including without

limitation any material delivered to ROSS by CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 43:

All DOCUMENTS CONCERNING the means by which and reason for ROSS obtaining WESTLAW CONTENT for the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 44:

All DOCUMENTS CONCERNING how the ROSS PLATFORM answered user questions, including without limitation technical DOCUMENTS sufficient to show how and why judicial opinions were selected and ordered in response to user questions.

REQUEST FOR PRODUCTION NO. 45:

DOCUMENTS sufficient to show what ROSS made available to its customers, including without limitation any materials, products, product features, and legal research services.

REQUEST FOR PRODUCTION NO. 46:

All DOCUMENTS CONCERNING any taxonomies, hierarchies or other organizational methods created by ROSS for the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 47:

All DOCUMENTS CONCERNING the purpose of any material, work product, or content delivered to ROSS by CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 48:

All DOCUMENTS CONCERNING potential customers who decided not to enter into a contract with ROSS, or past customers who decided not to renew their contract with ROSS, including without limitation the reason for not entering into or renewing said contract.

REQUEST FOR PRODUCTION NO. 49:

All DOCUMENTS CONCERNING COMMUNICATIONS between ROSS and PLAINTIFFS, including without limitation COMMUNICATIONS REFERRING OR RELATING TO the services and material sent to ROSS by LEGALEASE, the LEGALEASE LITIGATION, or the LEGALEASE COMPLAINT.

REQUEST FOR PRODUCTION NO. 50:

All DOCUMENTS CONCERNING COMMUNICATIONS between ROSS and PLAINTIFFS, including without limitation COMMUNICATIONS REFERRING OR RELATING TO WESTLAW, WESTLAW CONTENT, PLAINTIFFS, the LITIGATION, or the COMPLAINT.

REQUEST FOR PRODUCTION NO. 51:

All DOCUMENTS CONCERNING COMMUNICATIONS between CONTRACTORS (including without limitation LEGALEASE) and ROSS, including without limitation COMMUNICATIONS REFERRING OR RELATING TO the services and material sent to ROSS by LEGALEASE, the LEGALEASE LITIGATION, or the LEGALEASE COMPLAINT.

REQUEST FOR PRODUCTION NO. 52:

All DOCUMENTS CONCERNING COMMUNICATIONS between CONTRACTORS (including without limitation LEGALEASE) and ROSS, including without limitation COMMUNICATIONS REFERRING OR RELATING TO WESTLAW, WESTLAW CONTENT, PLAINTIFFS, the LITIGATION, or the COMPLAINT.

REQUEST FOR PRODUCTION NO. 53:

All DOCUMENTS CONCERNING COMMUNICATIONS between ROSS and any other PERSONS (including without limitation potential or actual customers) REFERRING OR RELATING TO WESTLAW, PLAINTIFFS, or WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 54:

All DOCUMENTS CONCERNING this LITIGATION and sufficient to identify all PERSONS with whom ROSS has communicated about this LITIGATION, including without limitation COMMUNICATIONS about (i) the existence of this LITIGATION and (ii) the facts, allegations, defenses, and claims set forth in the COMPLAINT, ANSWER, AMENDED ANSWER, SECOND AMENDED ANSWER, MOTION TO DISMISS, OPPOSITION, REPLY, COUNTERCLAIMS, AMENDED COUNTERCLAIMS or PARTIAL WITHDRAWAL.

REQUEST FOR PRODUCTION NO. 55:

All DOCUMENTS CONCERNING the LEGALEASE LITIGATION, including without limitation COMMUNICATIONS about (i) the existence of the LEGALEASE LITIGATION and (ii) the facts, allegations, defenses, and claims set forth in the LEGALEASE COMPLAINT.

REQUEST FOR PRODUCTION NO. 56:

All DOCUMENTS CONCERNING any expert reports in this LITIGATION pursuant to Federal Rule of Civil Procedure 26(a)(2).

REQUEST FOR PRODUCTION NO. 57:

DOCUMENTS sufficient to show the existence, nature, and extent of any insurance, indemnification, or similar agreement or arrangement to fund, contribute to, pay for, or provide reimbursement for any potential fees, costs, expenses, or liability incurred in connection with this

LITIGATION, including without limitation the insurance referred to in the blog post available at the website https://blog.rossintelligence.com/post/announcement.

REQUEST FOR PRODUCTION NO. 58:

DOCUMENTS sufficient to show ROSS's document retention policies, including the retention of emails or other electronic documents.

REQUEST FOR PRODUCTION NO. 59:

DOCUMENTS sufficient to show when, if at all, ROSS began preserving documents CONCERNING this LITIGATION, the LEGALEASE LITIGATION, WESTLAW, PLAINTIFFS, or WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 60:

All DOCUMENTS CONCERNING news articles or press clippings REFERRING OR RELATING TO ROSS, the ROSS PLATFORM, PLAINTIFFS, or WESTLAW, including without limitation copies of all news articles or press clippings.

REQUEST FOR PRODUCTION NO. 61:

All DOCUMENTS given to actual or potential customers of the ROSS PLATFORM, including without limitation any and all agreements, licenses, contracts, or pitch materials.

REQUEST FOR PRODUCTION NO. 62:

All DOCUMENTS CONCERNING the marketing of the ROSS PLATFORM, including without limitation all efforts to advertise or promote the ROSS PLATFORM, and all marketing material REFERRING OR RELATING TO WESTLAW or the WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 63:

Copies of all of ROSS's advertisements, whether in print, audio, audiovisual, digital, or other format.

REQUEST FOR PRODUCTION NO. 64:

Copies of all of ROSS's, Andrew Arruda's, and Jimoh Ovbiagele's interviews, presentations, and lectures, REFERRING OR RELATING TO ROSS, the ROSS PLATFORM, PLAINTIFFS, or WESTLAW, including without limitation all notes, talking points, or other material used to prepare.

REQUEST FOR PRODUCTION NO. 65:

DOCUMENTS sufficient to show the date on which and medium through which each of ROSS's advertisements ran, or were printed, aired, broadcasted, or otherwise distributed.

REQUEST FOR PRODUCTION NO. 66:

All DOCUMENTS CONCERNING research done by or on behalf of ROSS to build the ROSS PLATFORM, including without limitation research CONCERNING the amount, nature, and availability of legal content (such as WESTLAW CONTENT), PLAINTIFFS or WESTLAW (such as competitive intelligence research).

REQUEST FOR PRODUCTION NO. 67:

All DOCUMENTS prepared for, sent to, or given to investors or prospective investors in ROSS or the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 68:

All DOCUMENTS CONCERNING COMMUNICATIONS with investors or prospective investors in ROSS or the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 69:

DOCUMENTS sufficient to show all actual or potential investments in ROSS or the ROSS PLATFORM, including without limitation venture capitalists who have (directly or indirectly) considered investing.

REQUEST FOR PRODUCTION NO. 70:

All DOCUMENTS CONCERNING financial or potential financial investment in ROSS or the ROSS PLATFORM, including without limitation all DOCUMENTS sufficient to identify all past and present investors (actual or potential) in ROSS or the ROSS PLATFORM and their investors.

REQUEST FOR PRODUCTION NO. 71:

All DOCUMENTS CONCERNING the acquisition or potential acquisition of ROSS.

REQUEST FOR PRODUCTION NO. 72:

All DOCUMENTS CONCERNING any valuation of ROSS or the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 73:

All DOCUMENTS CONCERNING any efforts by ROSS to enforce its intellectual property rights.

REQUEST FOR PRODUCTION NO. 74:

All DOCUMENTS CONCERNING any enforcement activity by third parties REFERRING OR RELATING TO the ROSS PLATFORM, including without limitation actual, anticipated, threatened, potential, or considered litigation, arbitration, or other adversarial proceedings and all cease-and-desist DOCUMENTS.

REQUEST FOR PRODUCTION NO. 75:

All DOCUMENTS CONCERNING any objections, complaints, questions, concerns, or criticism of the ROSS PLATFORM, including, but not limited to, CONCERNING how the ROSS PLATFORM was created.

REQUEST FOR PRODUCTION NO. 76:

All DOCUMENTS created by PLAINTIFFS, including without limitation all DOCUMENTS downloaded from WESTLAW, or otherwise derived from or based on WESTLAW or WESTLAW CONTENT.

REQUEST FOR PRODUCTION NO. 77:

All DOCUMENTS CONCERNING licensing by ROSS to third parties of intellectual property, including without limitation licensing by ROSS to other parties of the ROSS PLATFORM; copies of all licensing agreements; and all COMMUNICATIONS with actual or potential licensees regarding the ROSS PLATFORM's content.

REQUEST FOR PRODUCTION NO. 78:

All DOCUMENTS CONCERNING the licensing or sale of TRAINING DATA to ROSS for use with the ROSS PLATFORM, including without limitation copies of all such licensing agreements.

REQUEST FOR PRODUCTION NO. 79:

All DOCUMENTS CONCERNING the decision to cease operation of the ROSS PLATFORM, including without limitation COMMUNICATIONS to and from ROSS's investors.

REQUEST FOR PRODUCTION NO. 80:

All DOCUMENTS CONCERNING transitioning ROSS's customers to Fastcase, vLex, and CaseText, including without limitation the reason for transitioning ROSS's customers to those companies.

REQUEST FOR PRODUCTION NO. 81:

DOCUMENTS sufficient to identify ROSS's competitors, including without limitation who they were and how many there were.

REQUEST FOR PRODUCTION NO. 82:

DOCUMENTS sufficient to identify ROSS's customers, including without limitation who they were, how many there were, and when they first entered into a contract with ROSS (including without limitation any trial periods to use the ROSS PLATFORM).

REQUEST FOR PRODUCTION NO. 83:

DOCUMENTS sufficient to identify ROSS's partners, including without limitation who they were and how many there were.

REQUEST FOR PRODUCTION NO. 84:

DOCUMENTS sufficient to show ROSS's yearly and monthly gross and net revenues, expenses, and profits, from conception to today.

REQUEST FOR PRODUCTION NO. 85:

All DOCUMENTS CONCERNING ROSS's past and present pricing plans for the ROSS PLATFORM, including but not limited to any one-time or per-use fees; daily, weekly, monthly, yearly, or other-term subscription fees; and all related downloadable software prices.

REQUEST FOR PRODUCTION NO. 86:

DOCUMENTS sufficient to show ROSS's yearly and monthly earnings attributable to the material and TRAINING DATA delivered to ROSS by CONTRACTORS, including without limitation LEGALEASE, including without limitation revenues, expenses, and gross and net profits.

REQUEST FOR PRODUCTION NO. 87:

All DOCUMENTS CONCERNING ROSS's projected future earnings, including without limitation earnings attributable to the material and TRAINING DATA delivered to ROSS by

CONTRACTORS, including without limitation LEGALEASE, including without limitation revenues, expenses, and gross and net profits.

REQUEST FOR PRODUCTION NO. 88:

All DOCUMENTS CONCERNING investments in ROSS, including without limitation investments attributable to the material and TRAINING DATA delivered to ROSS by CONTRACTORS, including without limitation LEGALEASE.

REQUEST FOR PRODUCTION NO. 89:

All DOCUMENTS CONCERNING ROSS's past, present, or future business plans, including without limitation plans to monetize the content delivered to ROSS by LEGALEASE through the ROSS PLATFORM.

REQUEST FOR PRODUCTION NO. 90:

ROSS's tax records.

REQUEST FOR PRODUCTION NO. 91:

DOCUMENTS sufficient to show ROSS's corporate formation and organizational structure, including without limitation its current or former principals, officers, directors, employees, business partners, investors, or owners.

REQUEST FOR PRODUCTION NO. 92:

DOCUMENTS sufficient to show the resumes of ROSS's current or former principals, officers, directors, employees, business partners, investors, and owners.

REQUEST FOR PRODUCTION NO. 93:

All DOCUMENTS relied upon, used, or referred to in response to PLAINTIFFS' discovery requests in this LITIGATION, including without limitation requests for admissions or interrogatories.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Dale M. Cendali

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May 3, 2021

EXHIBIT A

STATEMENT OF WORK II
FOR ROSS BULK MEMOS

This Statement of Work II incorporates and is made pursuant to the October 15, 2015 Master Services Agreement ("MSA") by and between ROSS Intelligence, Inc. ("ROSS"), a Delaware corporation and LegalEase Solutions, LLC ("Contractor") a Michigan limited liability company.

1. Definitions: Terms and expressions not expressly defined in this Statement of Work, shall have the following meanings:

1.1. "Case Law" means judicial decisions originating from a judicial or administrative body in the United States of America, or as otherwise prescribed in writing by ROSS and sent to Contractor.
1.2. "Legal Research Question" means a question grounded in legal principles.
1.3. "Memorandum or Memo" means a memorandum of law that answers a Legal Research Question.
1.4. "Quote" means an independent paragraph excerpt from Case Law.
1.5. "Reference List" means the list of Case Law included in the Memo.
1.6. "Deficiency" means a reference quote that does not directly answer the ROSS question.

2. Additional Terms and Expressions: Additional capitalized terms and expressions have the meanings ascribed to them in the MSA.

3. Currency: Unless stated otherwise, all dollar figures in this Statement of Work are in United States dollars.

4. Term: Subject to the termination provisions of this Agreement, the term of this Statement of Work shall be for a period of three months commencing on September 19, 2017 and expiring on December 19, 2017 ("Initial Term"). Upon the expiration of the Initial Term, this Statement of Work shall renew with the prior written mutual consent of ROSS for successive three month periods ("Renewal Terms"), unless terminated pursuant to the terms of the Agreement. The terms Initial and Renewal Terms shall be collectively referred to as the "Term".

5. Description of Service:

5.1. Contractor agrees to provide ROSS with bulk Memos. Contractor agrees to meet the expectations for performance as set forth in this Statement of Work. Contractor's attorneys will research topics and Legal Research Questions from any Federal or State jurisdiction in the United States, without regard to any legal decisions, draft Memos, and compile the Memos in the format approved by ROSS.

5.2. Each Memo shall include a Legal Research Question and a Reference list with a target of at least four (4) and no more than six (6) Quotes.

5.3. Two (2) to four (4) Quotes in each Memo shall contain either a "great" or "good" independent answer to the Legal Research Question. A "great" Quote is one that contains an answer to all essential elements of the Legal Research Question while a "good" Quote is one that contains an answer to most essential elements of the Legal Research Question. The Contractor shall strive for four (4) "good" or "great" Quotes per question. However, if

Contractor is only able to find 2 or 3 "good" or "great" Quotes, they shall only provide 2 or 3 "good" or "great" Quotes. Contractor shall strive to have more "great" than "good" Quotes.

5.4. One (1) Quote in each Memo shall contain a "topical" independent response to the Legal Research Question. A "topical" response is a response that answers and/or references limited components of a Legal Research Question but does not answer the essential elements of such Legal Research Question.

5.5. One (1) Quote in each Memo shall contain an "irrelevant" independent response to the Legal Research Question. An "irrelevant" response is a response that contains one or more keywords from the Legal Research Question but does answer and/or reference any elements of the Legal Research Question, either limited or essential.

5.6. Contractor shall label whether a Quote contains a response that is "great", "good", "topical" or "irrelevant" and double bracket and bold the specific component(s) of each such Quote that is "great", "good", "topical" or "irrelevant." Contractor shall also label which legal practice area each Quote falls under.

6. Changes: ROSS reserves the right to request changes, deletions, or additions as deemed necessary by ROSS and Contractor. ROSS' proposed changes shall become effective only by written agreement of Contractor.

7. Production/Delivery Schedule: Contractor agrees to draft ROSS questions and Memos pursuant to the Production Run schedule below. In the First Production Run of Memos, Contractor shall commence providing deliverables on October 19, 2017 and conclude on December 19, 2017, as outlined below. For the Subsequent Production Runs of Memos, Contractor shall provide 20,000 Memos in subsequent months to ROSS.

First Production Run

Delivery Date	Amount of Memos
October 19, 2017	5,000
November 19, 2017	10,000
December 19, 2017	10,000

Subsequent Production Run

Delivery Date	Amount of Memos
Month 1	20,000
Month 2	20,000
Month 3	20,000
Month 4	15,000

8. Fee: ROSS shall pay Contractor pursuant to the schedule below:

Reference Quotes	Price per Memo

4 Quotes + 1 topical and 1 irrelevant Quote	$26.17
3 Quotes + 1 topical and 1 irrelevant Quote	$24.55
2 Quotes + 1 topical and 1 irrelevant Quote	$21.00

Contractor shall provide a 5% volume discount to ROSS for any Memo purchase over 25,000 and a 15% volume discount for a total order of 100,000 Memos.

9. Payment: ROSS shall pay Contractor in advance at the beginning of each month for the following 30 days of expected output at a minimum $21.00 price per Memo (each, an "Advance Payment"). For clarity, the Advance Payment for the (i) first 5,000 Memos of the First Production Run due October 19, 2017 shall be $105,000 and shall be made on September 19, 2017; (ii) subsequent 10,000 Memos of the First Production Run due November 19, 2017 shall be $210,000 and shall be made on October 19, 2017 and (iii) final 10,000 Memos of the First Production Run due December 19, 2017 shall be $210,000 and shall be made on November 20, 2017. For any Subsequent Production Run, the Advance Payment shall be $420,000. If there is a difference between an Advance Payment amount and aggregate Memo cost during a Production Run pursuant to the Section 8 Fee schedule (the "Cost Difference"), Contractor shall provide ROSS a detailed accounting of such Cost Difference in a timely manner and ROSS shall pay such Cost Difference within seven (7) days receipt of such detailed accounting.

10. Delivery: Contractor shall deliver batched Memos via e-mail or FTP to ross@rossintelligence.com and via the ROSS Memo upload portal (the "Portal"). The Portal shall meet necessary specifications of speed and capacity to process daily batched Memo uploads.

11. Quality Assurance: Contractor shall ensure the Memos submitted follow the (i) quality control processes detailed in the LegalEase Solutions Quality Control Guide ("QCG") provided in Schedule A to this Statement of Work and the (ii) Quality Control Checklist provided in Schedule B to this Statement of Work. Contractor shall follow a staged quality control process. There will be 100% quality control for the first 2000 Memos, 75% for the next 10,000 Memos and 25% for the remaining Memos. If any of the Memos submitted do not meet the parameters prescribed in the QCG, ROSS shall inform Contractor of such Deficiencies within 14 days of receipt of the applicable Memos. If no such notice is received within the prescribed 14 days, the applicable Memos shall be deemed fully accepted by ROSS. A 15% penalty shall be charged to any Memo and/or batch of Memos that fail to meet the QCG requirements.

12. Reporting: Contractor shall email daily reports to ROSS which include the production totals, QCG results, and other requested information from ROSS.

13. Destruction of Memos: Contractor acknowledges that the Memos constitute Confidential Information and shall remove and destroy all Memos and copies of Memos in its

possession within sixty (60) days of each Production Run and shall concurrently confirm to ROSS that such removal and destruction has occurred.

14. Existing Agreements: This Statement of Work is ancillary to existing agreements, including, but not limited to the MSA and prior Statements of Work.

Date: September 15, 2017

ROSS INTELLIGENCE, INC.

By: _____

Name: Andrew Arruda
Title: Chief Executive Officer

LEGALEASE LLC

By: _____

Name: Tariq Hafeez
Title: President

Schedule A

Quality Control Guide for ROSS Intelligence

Drafting Questions, Preparing Responsive Memorandum, and Quality Control Procedures

LegalEase Solutions LLC

LEGALEASE SOLUTIONS LLC

TABLE OF CONTENTS

LEGALEASE SOLUTIONS LLC

Overview

Introduction

The LegalEase Solutions Quality Control Guide ("QCG") is the primary quality assurance resource and playbook for our attorneys. This QCG provides all the tools and resources needed for the drafting and delivery of ROSS Intelligence memos.

Audience

The intended audience for this guide is our attorneys who prepare Ross memos. Additionally, this guide may be utilized by ROSS to review our internal process.

Objectives

This guide:

- Identifies clear guidelines for attorneys to follow when designing, developing, and researching, drafting, and delivering ROSS memos.
- Describes quality control standards for ROSS memos.
- Describes quality control procedures and processes set in place for ROSS memo production.

LEGALEASE SOLUTIONS LLC

Legal Disclaimer

This Quality Control Guide includes proprietary, confidential, and/or trade secret information. LegalEase considers this information to be a trade secret not subject to disclosure.

LEGALEASE SOLUTIONS LLC

The LegalEase ROSS Team and Process

We have organized a comprehensive team for this project. Leading the team for ROSS operations are Teri Whitehead, VP of Global Strategy and Gayathri Rajeev, Director of Operations in India. Teri and Gayathri will oversee operations and are available anytime to address and resolve any potential concerns.

Attorneys. Our team of attorneys will research topics and questions, draft the memos, and compile the memos in the ROSS approved format. We will ensure that our attorneys follow this QCG for drafting memos and utilize our internal associate work product checklists. The steps include:

i. Using our LegalEase's creative process, to produce ROSS questions.
ii. Research answers to questions.
iii. Draft ROSS memorandum.

Quality Control Attorneys. We have allocated a minimum of 5 separate QC attorneys to independently review memos, ensuring that ROSS standards are met. These attorneys have a minimum of 3 years' experience in these positions. The QC team will be expanded as needed per the scope and requirements of this project. The QC team will follow the QC checklist setting out the steps to be followed in completing the process. These steps include:

i. Review and confirm the grammar, question format, and citations.
ii. Confirm and review short answer and legal analysis.
iii. Review reference quotes for relevancy.
iv. Confirm case law.
v. Advise associates of errors and design action plan to avoid future errors.

Staged Quality Control Process. Our QC attorneys will follow LegalEase's staged quality control process. We have used this process with success on other large accounts with over 50,000 documents.

First Stage:
100% QC of 2000 Memos. Our QC attorneys will QC 100% of the first 2000 memos.
Second Stage:
75% for the next 10,000 memos. Our QC attorneys will QC 75% of the next 10,000 memos.
Third Stage:
25% for the remaining memos. Our QC attorneys will QC 25% or more of the remaining memos.

LEGALEASE SOLUTIONS LLC

Production Expeditors. Our dedicated ROSS production expeditors will comply and follow ROSS' process on delivery, including the portal upload, data tracking, and logistics. These steps include:

i. Validate question originality.
ii. Upload memorandum to ROSS dedicated portal.
iii. Update internal LE production tracking sheet.
iv. Email production totals of attorneys and QC attorneys to Project Managers.
v. Update internal exception error tracking sheet.
vi. Update ROSS' completion tracking sheet.

India and US Project Managers. We have assigned to ROSS, three project managers. Our project managers will guarantee and ensure ROSS quality and processes. Having project managers in different time zones will provide round the clock attention and access.

The role of the PM's include:

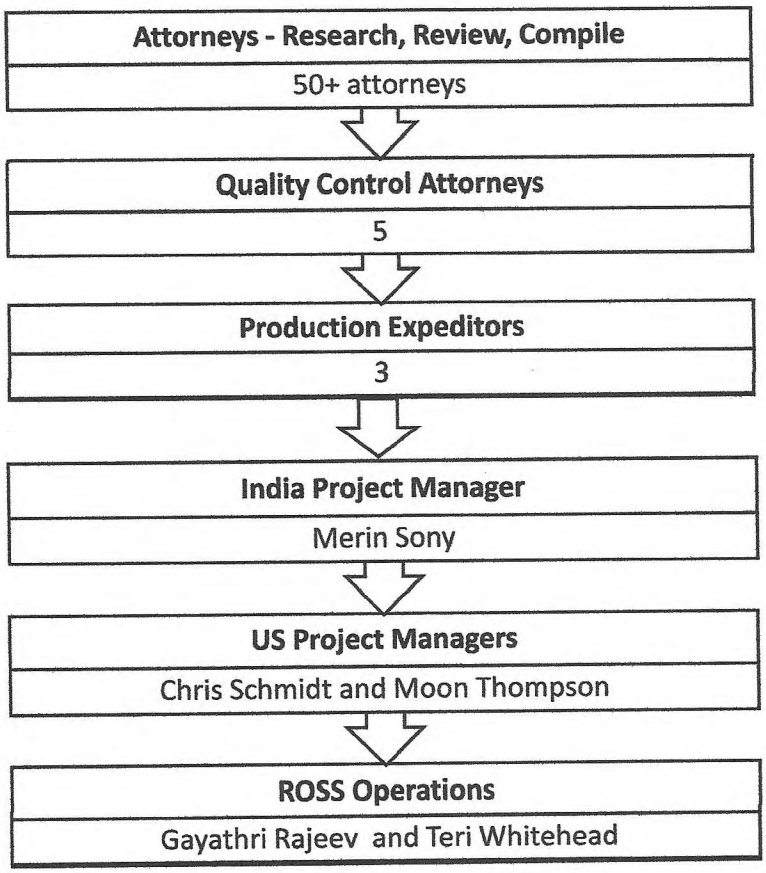
i. Review production of attorneys, QC attorneys, production expeditors.
ii. Daily review protocol and process for efficiencies following LE model theory of constraints.
iii. Address any concerns.
iv. Email daily reports to LegalEase Operations detailing production, legal topics addressed, upload process production, improved efficiencies, and QC results.

Ross Operations. Teri Whitehead and Gayathri Rajeev will oversee all aspects of this project. Teri and Gayathri's role includes the following:

i. Address any concerns.
ii. Email daily reports to the ROSS team providing production totals, QC results, and other requested information.
iii. Host daily conference status calls with the ROSS Production team.

LEGALEASE SOLUTIONS LLC

The LegalEase ROSS Process Flowchart



Schedule B

Document ID	: ROSS Bulk QCC
Date of Issue	: 07.08.2017
Periodic Review	: 09.15.2017
Revision No	:

Quality Control Checklist for ROSS Intelligence

LegalEase Solutions LLC

QUALITY CONTROL CHECKLIST FOR ROSS BULK MEMOS

Attorney - ROSS Intelligence Checklist

Description	Completed
1. Draft ROSS questions following LegalEase Creative Process.	
2. Research questions using online resources and accounts.	
3. Label cases as great, good, topical, and irrelevant.	
4. Confirm that great, and good quotes answer the question directly.	
5. Add topical and irrelevant cases.	
6. Confirm that the topical and irrelevant cases meet the criteria.	
7. Confirm grammar correct throughout memo.	
8. Confirm the font and space of the memo.	
9. Follow file name convention.	

Review Attorney - ROSS Intelligence Checklist

	Description	QC 1	QC 2
	Question should not be state specific.		
	Grammar check of question.		
	Quotes to be labeled correctly. GREAT – must contain **all** essential elements of the question. GOOD – contains **most** of the essential elements of the question.		

	TOPICAL – foundation quote, background information. IRRELEVANT– has no reference or relevance.		
	Should label as Great Case 1, Great Case 2, and not Great Quote.		
	Bracketed language **must** answer question. Bracketed language may be up to a paragraph. If necessary, you can double bracket separate sentences. Bracketed language must be a sentence. Not just two words.		
	Double Brackets, and Content in Bold.		
	No red squiggly line.		
	Confirm reference quote. Ensure Topical quote and Irrelevant quotes are added.		
	Smartsheet updates.		
	Double check the Form - Double Brackets for Quotes. No highlights.		
	Memo number.		
	Memo saved in correct format – naming convention.		

CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2021, copies of the foregoing were caused to be served upon the following in the manner indicated:

David E. Moore, Esquire — *VIA ELECTRONIC MAIL*
Stephanie E. O'Byrne, Esquire
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San Francisco, CA 94111
Attorneys for Defendant

/s/ Michael J. Flynn

Michael J. Flynn (#5333)

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF DELAWARE

- - -

THOMSON REUTERS ENTERPRISE CENTRE GMBH and WEST PUBLISHING CORPORATION,

Plaintiffs,

v

ROSS INTELLIGENCE INC.,

Defendant.

: CIVIL ACTION

: NO. 20-613-LPS

- - -

Wilmington, Delaware
Friday, October 30, 2020
Telephonic Argument

- - -

BEFORE: HONORABLE LEONARD P. STARK, Chief Judge

APPEARANCES:

- - -

MORRIS, NICHOLS, ARSHT & TUNNELL LLP
BY: JACK B. BLUMENFELD, ESQ.

and

KIRKLAND & ELLIS LLP
BY: DALE M. CENDALI, ESQ., and
JOSHUA L. SIMMONS, ESQ.
(New York, New York)

Counsel for Thomson Reuters Enterprise Center GmbH and West Publishing Corporation

POTTER ANDERSON & CORROON LLP
BY: DAVID E. MOORE, ESQ., and
STEPHANIE E. O'BYRNE, ESQ.

and

Brian P. Gaffigan
Official Court Reporter

APPEARANCES: (Continued)

CROWELL & MORING LLP
BY: GABRIEL M. RAMSEY, ESQ.,
KAYVAN M. GHAFFARI, ESQ., and
JACOB CANTER, ESQ.
(San Francisco, California)

and

CROWELL & MORING LLP
BY: MARK A. KLAPOW, ESQ.
JOSHUA M. RYCHLINSKI, ESQ.
(Washington, District of Columbia)

Counsel for ROSS Intelligence Inc

- oOo -

P R O C E E D I N G S

(REPORTER'S NOTE: The following telephonic argument was held remotely, beginning at 11:04 a.m.)

THE COURT: Good morning, everybody. This is Judge Stark. Who is there for the plaintiff, please?

MR. BLUMENFELD: Good morning, Your Honor. It's Jack Blumenfeld from Morris Nichols for the plaintiffs. Also on for the plaintiffs are Dale Cendali and Joshua Simmons from Kirk & Ellis. And from Thomson Reuters, Carolyn Blankenship and Jeanpierre Guiliano. And with Your Honor's permission, Mr. Cendali and Mr. Simmons are going to split the argument today.

THE COURT: Okay. That's fine.

Good morning to you all.

And who is there for the defendant, please.

MS. O'BYRNE: Good morning, Your Honor. Stephanie O'Byrne along with Dave Moore from Potter Anderson & Corroon for defendant ROSS Intelligence. I'm joined by co-counsel from Crowell & Moring, Gabe Ramsey, who, with the Court's permission, will be arguing for defendants this morning. Also in attendance from Crowell & Moring, we have Mark Klapow, Kayvan Ghaffari, Josh Rychlinski, and Jacob Canter. And from ROSS Intelligence Inc. we have several client representatives of the client as well: Andrew Arruda, who is the CEO of ROSS, Jimoh Ovbiagele, who is the CTO of ROSS, and Maya Bielinski, who is in-house counsel for ROSS.

Thank you, Your Honor.

THE COURT: Thank you. And good morning to all of you as well.

I do have a court reporter on the line taking everything down, so I will note for the record that it is our case of Thomson Reuters Enterprise Centre and West Publishing Corp. versus ROSS Intelligence, Inc., our Civil Action No. 20-613-LPS.

This is the time we set to hear argument on the defendant's motion to dismiss the complaint. So we will hear from the defendant first. And I believe Mr. Ramsey. You may proceed when you are ready.

MR. RAMSEY: Very good. Thank you, Your Honor; and good day. I'd like to reserve 10 minutes for rebuttal so I'll attempt to frame our discussion accordingly.

THE COURT: Okay. I'll let you know when there are 10 minutes left.

MR. RAMSEY: Much appreciated. Thank you, Your Honor.

Your Honor, there is a single overarching problem across the board with the respect to the plaintiffs' claims in its complaint. There is no direct fact, no plausible inference from any factual alleged material of any copying by either ROSS or third-party LegalEase, and there is no direct fact or any plausible inference from any alleged fact that ROSS had knowledge or intent or any

control with respect to any alleged activities of LegalEase. The claims fail to state a claim for these reasons across the board. In other words, plaintiffs have filed to plead enough facts to state a claim for relief that is plausible on its face as *Twombly* requires. There is only guesswork, speculation, and unwarranted inference.

First, plaintiffs do not allege any plausible fact of any actual material copied by ROSS into any of its material or its system.

So just first off the bat, any of the materials returned by ROSS's system, it is undisputed, do not contain the alleged key numbers or headnotes, which it's less even for purposes of arguing assuming that those things are protectable.

In fact, in the briefs, it's not -- it appears that plaintiffs are conceding that the actual opinions returned by the system are not at issue. That is not where the allegations of copying exist, and the Court can take judicial notice of the opinions from the ROSS system attached to the complaint.

So then the question is, is there any plausible fact alleged directly -- a factual allegation from which it can be inferred that key numbers and headnotes from the Westlaw system are in ROSS's technology in some way?

And the answer is simply no. There is no place

in the complaint where there is a fact alleged or any fact from which it could be inferred that key numbers specifically and headnotes specifically are copied into any ROSS technology.

In fact, in paragraph 26 of the complaint, plaintiffs admit that ROSS users are able to search for relevant law, and I quote, "by posing a question in natural language as opposed to boolean terms or keywords."

This is the only characterization of plaintiffs of the accused technology in the system in the complaint, and it is clear that the characterization is that the system uses natural language. In other words, the language of the underlying judicial opinions, not a structured means of organization such as key numbers or headnotes or some other system like boolean constructors.

So the facts that are alleged suggest the opposite of copying of key numbers or headnotes or some structure or reading or understanding or searching for the law.

But more broadly, in the complaint there is only speculative allegations that somehow ROSS alleges we needed some "descriptions of content or means by which to organize that content.

But there is no factual content. These are just bare conclusory allegations that such a need without any

underlying factual content that ROSS actually had such a need or from which it could about entered that ROSS had such a need or that in response to such a need that ROSS actually copied key numbers and headnotes into its technology. There is no factual content.

THE COURT: Mr. Ramsey, yes, let me ask you a question on that.

MR. RAMSEY: Please.

THE COURT: If it was adequately alleged that ROSS copied the headnotes or key numbers in creating its system, even if it were not alleged that it did that copying on an ongoing basis, i.e., in the search results one might get back when using the ROSS system, would that potentially be a sufficient basis for a copyright infringement claim or are you suggesting they have to allege the latter, that is, on an ongoing basis a user will get back key numbers and headnotes?

MR. RAMSEY: Well, I believe that the -- to answer your question, if the plaintiff alleged facts from which it was directly established or could be reasonably inferred that ROSS had copied on one or more instances the key numbers and the headnotes and used those in the system, in developing the system, that may state a claim.

But that is, that is the defendant's point. This complaint does not state such a fact anywhere from

which it could even be inferred that the key numbers and the headnotes were somehow used in the engineering process.

So let me, for example, perhaps present it this way. There is nothing that, not even a fact from which it could be inferred that LegalEase downloaded headnotes and key numbers and put them on some medium, handed them off to ROSS and then -- or that there is any feature of ROSS's system from which it could be inferred that, yes, this is this type of architecture, this type of system in the key number system that headnotes somehow drove algorithm development. It is pure sheer speculation.

THE COURT: Well, do they really need to reach the level of that it drove your system or drove the development of your system? I mean they do allege that, and I recognize they're just allegations, but you acknowledge have to take them as true if they're not conclusory.

They allege that you all induced this third party to reproduce en masse large quantities of materials from Westlaw. Why is it not reasonable to infer from that that when those materials were accessed en masse, the keynotes and the headnotes were somehow employed?

MR. RAMSEY: So I think the requirements of the case *Frazier v. City of Philadelphia* answers that question. In order to sufficiently plead a copyright claim in the Third Circuit, it's necessary to allege both access and some

factual content from which copying can be inferred.

Here, all that is alleged as to LegalEase is that LegalEase access, and it's alleged that there was a large volume of the Westlaw system to search. In other words, that is all we know from the complaint. That is all that can be reasonably inferred is that LegalEase used the Westlaw system to find law.

There is not, in addition, as required by *Frazier* and other cases, any factual content from which it can be reasonably inferred that LegalEase has even downloaded key numbers and headnotes.

And by the way, even with respect to the allegation of access, there is no facts in the complaint to attach ROSS to that access.

But further, there is no factual content from which it could be inferred that it is actually downloading the headnotes and key numbers.

THE COURT: You say I can take judicial notice --

MR. RAMSEY: Or -- (inaudible, two people talking at once.)

THE COURT: Right. You say I can say judicial notice of how ROSS opinions appear when accessed. Can I take judicial notice of how Westlaw opinions appear when I download them or look at them?

MR. RAMSEY: I have no objection on behalf of ROSS, and would submit that these are very different, these are very different materials of Westlaw opinions. When one reviews it, has headnotes and key numbers.

THE COURT: Right. Well, I don't want to --

MR. RAMSEY: And ROSS will continue to --

THE COURT: I don't want to supply factual content. It happens to be, of course, I'm familiar with Westlaw, as I'm sure we all are. So this is a technology I have some familiarity with. That generally I would think would be irrelevant to the analysis, but if I could take judicial notice, when I look at a Westlaw opinion, it has headnotes and it has, you know, the key numbering system on it. I don't know how to not have that.

So why isn't it at least a plausible allegation, a reasonable inference that is LegalEase copied large en masse portions of the Westlaw database that at least on occasion say copied with it headnotes and key numbering and, therefore, you know, this element of the claim is adequately stated for this early stage of this case?

MR. RAMSEY: Well, I would again return to the complaint. There is no factual allegation that actually allows such an inference. All that is alleged is that LegalEase carried out "tons and tons of legal research." In other words, accessed the system. There is no plausible

fact that suggests any downloading of any key number or headnote in passing that to ROSS.

That's the point. There needs to be some factual content to suggest that there was actually some downloading of that material. And in this case, the chain of inferences breaks even farther beyond that. There would have to be a direct factual allegation or reasonable inference, in fact, that downloading of these particular pieces of content happened. They were handed to ROSS. That ROSS somehow, there is some reason to believe that is more than just the broad level, broad recitation of copyright infringement that those particular features were in ROSS's system.

And it's important to note, ROSS's system is publicly available. This is not the kind of case where the product couldn't be reverse engineered. There is no term of a contract that has been pointed to that would stop the plaintiffs from doing reverse engineering and investigating, looking into what goes into ROSS's system, looking at what comes out; how is conducting a real investigation, that would supply facts from which it could be inferred that, that headnotes and key numbers were in fact in the system; there is none of that.

You know, this is not a patent case, but I will note, many patent cases that come before this court, as Your

Honor knows, it is quite common to require claim charts and, you know, not every detail, of course, needs to be alleged. You don't have to prove your case up front. But there must, under the *Twombly* and *Iqbal* standards, must be some factual content to show that the intellectual property right was infringed, something to suggest that some specificity of an element of a claim is met in a patent case, for example.

And the same is true in a copyright case. There must be something about the ROSS's system other than the fact that it is a generally similar legal research system to Westlaw, something more specific than that to suggest that key numbers and headnotes are used in the architecture, which is just not so as it turns out. But there is nothing to suggest that in the complaint.

THE COURT: I thought you already told me, though, that even if it's not in the architecture, if it's not in the user interface, but the keynotes and head numbers were used in the development of the ROSS system, that could potentially state a claim for copyright infringement. Didn't we already agree on that?

MR. RAMSEY: We did, but there is no -- the point is there is no facts directly alleged or any fact from which it could be reasonably inferred.

THE COURT: And won't you agree that in the process, that development process, that is not public. That

is not something that the plaintiffs can know at this point on anything other than information and belief; right?

MR. RAMSEY: Ah. I disagree with that, respectfully, Your Honor. That is the point about reverse engineering.

If plaintiff is doing something more than -- we know this from the law. Plaintiff must plead something more specific than their product is like our product in terms of software, and that is all that is alleged here.

In order to get to the point where there is a reasonable inference that the key numbers and the headnotes are used in the product architecture, there must be some reverse engineering. This is a case where the plaintiff, again, could and should have investigated the way that the system worked, observed its features and come up with some feature and factual aspect of the ROSS system that would allow an inference that it is structured and operates in a way using key numbers or headnotes.

This is the kind of thing that not every piece could be, of course, known but something could be known about the way that the ROSS's system worked if plaintiff had a theory that was grounded in plausible factual allegations and not just conjecture.

That's the point, that if plaintiff wants to plead a plausible case that there is copying and use of

headnotes and key numbers in the architecture of ROSS's system, there is plenty of material, and they could have and should have analyzed, reverse engineered, investigated that system to come up with a plausible inference.

And the fact that they have been engaged with ROSS for many years and went through a whole litigation with LegalEase, the system is widely and publicly available, and there is absolutely no detail to suggest that, such a copying in the infrastructure, no investigation, the claim fails.

And so, again, there is no plausible fact directly or facts from which it could be inferred that this material was copied into ROSS's system or even that LegalEase downloaded any such material and handed it to ROSS. There needs to be more than broad generalities.

The case, *Levey v Brown Investment Group* makes it clear unsupported conclusion, unwarranted inferences are just not sufficient. And that is all that is alleged here on information and belief.

I'll note that the *Network Managing Solutions* case does make the point that where a product can be reverse engineered, that is a requirement to get to the kind of facts that you would need to allege infringement.

And that's the case here, yet plaintiffs allege nothing of the sort. It's just, just a bare conclusory

assertion that the materials must be in there some way because the product functions in the same general technical space as Westlaw.

I'm going to move on to indirect infringement, Your Honor.

So beyond ROSS's content and products, there is also no plausibly alleged facts to support indirect infringement.

Nowhere in the complaint the plaintiff set forth any factual allegations at all that ROSS had any knowledge or intent to cause any reproduction, distribution or derivative works by LegalEase or that ROSS had any knowledge of any contract between LegalEase and West or knowledge that there was any exceeding the scope of such an agreement.

There is no factual allegations that ROSS knew of the terms of such an agreement between LegalEase and ROSS. All that is alleged is that ROSS at some point asked to use Westlaw, West said no, and that ROSS at some point in time hired LegalEase to carry out legal research. That is all that is alleged.

From such bare facts, it is simply not possible to infer that ROSS actually knew about specific terms of LegalEase's agreement with West or even that Westlaw use had anything to do with the relationship between ROSS and

LegalEase.

It simply can't be inferred from the fact that ROSS was not able -- not permitted to use Westlaw at some point in time and that at another point in time engaged LegalEase to carry out legal research. And, again, that is all the plaintiffs allege with respect to ROSS's relationship with LegalEase. That ROSS engaged in legal research, nothing further than that.

From that fact alone, it cannot be inferred, and it is certainly not directly alleged factually, that ROSS caused LegalEase to use Westlaw in the first place in general, that ROSS knew of the contract between LegalEase and Westlaw.

During the briefing, a very general contract was attached, I believe that should be disregarded, but nonetheless, even that contract, there is no way to know if that has any bearing on ROSS or LegalEase. They simply have not established there is a particular LegalEase contract with terms that were violated, much less that ROSS knew about that. So, again, it's a similar sort of failing as to the direct infringement claims.

THE COURT: It is further alleged that the basis on which ROSS was denied access to Westlaw was that West does not give competitors access to its products. I think it's at least a reasonable inference that LegalEase is not a

competitor of Westlaw. And why doesn't it follow from all of that that it's reasonable to infer that ROSS understood they would have to go through some sort of third party, some sort of subterfuge in order to get the Westlaw materials that they knew they could not get directly?

MR. RAMSEY: Well, there is no -- again, back to the pleadings standards, there is no facts alleged that ROSS did anything except in general hired LegalEase to carry out legal research. There is nothing wrongful about, you know, negative that can be inferred from hiring a party to carry out legal research, whether one is a competitor or not.

There is no facts even alleged that ROSS even knew LegalEase was going to use Westlaw as opposed to the Google search or Lexis or PACER or PacerPro or any of the other tools that are readily available in the world to find the law. That's the failing.

And there is also no allegation that ROSS actually knew of any provision in LegalEase's contract, one way or the other. All that is alleged is that ROSS went to a third-party legal research provider and asked for legal research. And that, that is simply not enough to get to the inference that ROSS, and both -- this covers the terrain both for indirect and copyright infringement and for tortious interference. That ROSS knew of the terms of a contract, intended to induce its breach for purposes of

tortious interference or for purposes of indirect copyright, infringement knew that whatever LegalEase was doing exceeded the scope of any license or violated terms.

There is just no -- ROSS simply didn't know about the contract, didn't know what LegalEase was doing. This was from the face of the complaint. The complaint is silent about those things.

So it simply can't be inferred that ROSS intended or knew or induced or contributed to copying any particular material or use of Westlaw even in general.

So, again, it's the same failing that -- it's a huge chain of leaps between the simple fact that ROSS is alleged to have engaged LegalEase to carry out legal research and many, many steps beyond that where the chain of inferences breaks both for purposes of copyright infringement and for purposes of tortious interference.

So further complicating matters, to complete a plausible copyright claim, it's not just enough to allege that copying happened, there has to be some allegation that copying of copyrightable elements were undertaken by the defendant.

Here, there is simply none of that. Again, it's just a general allegation that ROSS engaged LegalEase to carry out legal research and that somehow, not stated and no facts in any sort of reasonable chain from which it could be

inferred, that protectable, protectable material was actually copied into ROSS's system or the protectable material was downloaded by LegalEase.

Also note from the face of the complaint, the key number system and the headnotes themselves are not copyrightable.

We don't need to decide everything related to copyrightability of headnotes or key number systems or discussion related to the law or material related to the law, we just need to look at the pleadings.

So very briefly, the headnotes are just recitation of legal rules and legal concepts taken from judicial preponderances.

One of the examples given is a direct quote from two Supreme Court cases. That can't be protectable. It is a judicial edict.

The second example of headnote states in plaintiff's own assertions the key concepts. Those are plaintiff's words in the case.

That is not a creative -- stating the key concepts in a case is not a creative, expressive gesture.

And for those reasons, the offered headnotes are not copyrightable.

The key number system is just an alphabetically ordered list of legal topics.

The examples provided in the complaint -- these are plaintiff's examples -- are discussion of a legal topic in general. The nature and the elements, intent, acts and omission, these are basic building blocks of the law, these are not creative expressions; and therefore the key number itself is, as alleged in the complaint, is not creative in nature because they're just the general ideas of law that any lawyer would pick up and talk about.

Talk about the topic of law in general, talk about the topic of law and its nature and elements. That is a requirement of legal rules. Intent, this is mens rea. Acts and omissions act as reas. Basic legal building blocks that do not express anything in terms of communicating to an audience in which the copyright law anticipates.

And to provide a copyright on articulation that there is an ordered alphabetical list of legal topics and claiming a monopoly on identifying those, those topics in general, their nature and elements, their intent, the acts and omissions required would provide an monopoly under the law, and that is a dangerous proposition.

So with that, I will move on to --

THE COURT: Well, before you move on. The arguments about whether there is any plausible allegation of something protectable by copyright, why are those not viewed as affirmative defenses and therefore a premature

basis for me to grant dismissal?

MR. RAMSEY: Well, so under the pleadings standard, it's clear that plaintiff -- again, plaintiff has to allege copying of copyrightable material. So we're not asking to rule on, pass on the entirety of the defense.

But at the same time, under the pleading rule, so a good case is *Riordan vs. H.G. Heinz* in the Western District of Pennsylvania. In that case, the plaintiff posed material in the complaint that the Court found on its face was an unprotectable idea.

So we're asking that the Court pass in the same way here. To look at the material in the complaint, the ordered alphabetical list of legal topics, the particular list of elements that are alleged to constitute this key number system, which, by the way, is an unprotectable system, plaintiffs even call it that, and the two headnote examples, and simply pass on the face of the pleadings; much like in the *Riordan* case, that the material posed and alleged is, on the face of the complaint, not protectable.

So this was part of the pleading standard that if what is put forward by a plaintiff in a copyright case is not facially protectable is an appropriate, appropriate question for the Court to pass on on a Rule 12(b)(6) motion.

THE COURT: How do I factor into all of that the allegations about the registration with the copyright

office?

MR. RAMSEY: Again, this ties back to the pleadings standards under Rule 12(b)(6). It is true that a very large number and massive body of materials are claimed in the voluminous copyright registrations that are attached. And the cases that were cited in the defendant's brief make clear that a plaintiff can't just point to a massive body of material across many, many registrations and assert there is copying of some protectable material out of this massive body of material, and that is what is happening here.

And so then when one -- and the Court must pass and look at the complaint and know exactly what is alleged. And when we do that here, we see, of the material that may or may not be protectable under these very broad registrations, that which is in the complaint is simply not on its face. And we don't -- this stage, you know, will pass further than that.

But the case, this is the reason for the pleadings standard that requires that a plaintiff not just plead copying in a very general way but copying protectable elements. Copyright registrations may cover broad swaths of material such as here, that includes some protectable, some unprotectable material. And hence, it's all the more important that the plaintiffs specify something that is actually protectable and something that is protectable that

was actually copied.

Back to the initial conversation. Here, there is no suggestion that the key numbers or the headnotes themselves are in any ROSS system. There is no fact that those allegedly protectable material, even assuming they were, were copied.

So it's, again, just a large chain of inference from an active LegalEase to download material which it's not even, it's not even shown any material was downloaded, much less something that is protectable. That such protectable material was -- there is nothing to infer it was handed to ROSS at all. The complaint is absolutely silent that such material was then put into the hands of engineers at ROSS, and there is some rational reason from the facts to infer that material drove a particular architecture in a ROSS product.

The entire chain of inference breaks down. And it is both in terms of copying in general and in terms of copying protectable elements.

THE COURT: Doesn't the registration create at least a presumption that there is something protectable within Westlaw?

MR. RAMSEY: I concede that in general that is true. But that broad -- again, we're not litigating the entire case here. I agree and concede that in general that

is a proposition of law about copyright registrations.

But, again, under the pleadings rules, the Court must look at the complaint itself and say what of that material was plaintiff actually alleging. That is what we're passing under Rule 12(b)(6) and nothing more.

The defendant submitted in this case the two examples of headnotes and the system, the system under 102(b) of the Copyright Act that is not protectable, and its constituent elements. This alphabetical list of topics and the most fundamental "key concepts" of each of those topics.

This is the way plaintiff chose to plead their complaint. Plaintiff unfortunately, from defendant's position, have chosen material out of whatever might be copyrightable in a copyright, within a copyright registration. Plaintiffs have chosen material in the complaint that doesn't meet that bar.

THE COURT: They suggest at least in their briefing that they think they have something protectable in what they call the compilation, at which I think they mean the entirety of Westlaw and how they put it together in total.

Might that be a further plausible allegation here?

MR. RAMSEY: Well, first of all, that is not alleged in the complaint. What is alleged in the complaint

is only two, two headnotes. In other words, what is alleged is representative of the material that is allegedly copyrighted. Two headnotes and an alphabetical list of legal topics and key concepts ordered within those legal topics that are very, very basic fundamental principles of law, the ways of lawyers thinking about the law.

So there is no allegation of a compilation that was -- and certainly not one that was copied by ROSS. Again, back to the failure of alleging copying.

There is nothing to even get to copying of a single headnote by ROSS or a single portion of this key number system by ROSS, much less something that could be characterized as a compilation.

THE COURT: Do you oppose me giving them leave to file an amended complaint?

MR. RAMSEY: Well, I'll put it this way, Your Honor. At this point, given that plaintiffs have had access to ROSS's system to investigate -- it's freely available. They could look at what comes in, look at what comes out, conduct a reasonable investigation, and given the long multiple year history and thousands of documents and engagement with ROSS, we believe it would be futile, but if the Court sees it differently, there would be no opposition, of course.

THE COURT: All right. Did you want to talk a

little bit about statute of limitations?

MR. RAMSEY: So unless Your Honor has questions, I think I will just -- I only have got about five minutes here -- rest on the papers for purposes of statute of limitations just in the interest of time, and instead spend time focused on the failure to plausibly allege tortious interference.

I point Your Honor to a couple of cases under the *Travel Syndications Technology* case in Delaware and *Pacific Gas & Electric vs. Bear Stearns* case in California.

Regardless of which law applies, it's clear to plead tortious interference it's necessary to plausibly plead both knowledge of the contract and an intention to bring about its breach. Those are the two requirements.

And it's, I think it is encapsulated in the indirect infringement that the concepts are very related and the failures are very related.

Here, the plaintiffs allege no, no fact from which it can be inferred or directly established that ROSS knew anything about LegalEase's contract, only that LegalEase was a legal research company. So plaintiffs failed to allege the knowledge of the contract and they alleged no act by ROSS to carry out, to bring about any breach of such contract or any particular term.

Again, the complaint, as to ROSS's relationship

with LegalEase, the only facts in the complaint are that ROSS hired LegalEase to carry out tons and tons of Federal Defender legal research. Carrying out legal research in the United States is not a suggestion of any, any untoward conduct. It's simply not enough to get to the elements of any of the claims in the complaint.

And I believe I'm at my time.

THE COURT: We've got you at 12 minutes left, so I don't know if you have more you wanted to say at this point.

MR. RAMSEY: Well, I think that covers it in terms of tortious interference. Since I've got a couple of minutes by your watch, I will note that under the statute of limitations issue, the only salient factual material alleged in the complaint is that ROSS is in California and that the alleged acts were carried out by ROSS which is in California, and this is quite important in determining which law applies.

Under the barring statute, since all of the actors are foreign plaintiffs, the statute of limitations where the claim arose is a question. Here, the claim arose in California, and the question is which state has the most significant relationship of the dispute, and that is under Section 145 of the Restatement of Conflicts of Law. Here, it's in California where the activity happened. It's where

ROSS is domiciled. It is where the injury took place. That is a really important one.

Really, plaintiffs only response to substantial relationship is to mention that West Publishing is located in Minnesota. Really no more elaboration than that. It fails to mention the other plaintiff is based in Switzerland.

And it's clear in the *Ubiquitel* case, that where the injury could have occurred is in multiple ways. "The particular weight" -- those are the words of the case -- "should be placed on the place causing the alleged injury." Here, allegedly ROSS's activities in California. So the California statute applies.

And as to the substance, the statute has run, because under California law, the statute of limitation runs no later, accrues no later than the breach itself, the underlying breach itself.

And here the complaint, the plaintiffs allege that as of July 2017, as early as that, there was awareness that LegalEase was working with this machine learning company. It's clear from the complaint it can be inferred an investigation was ongoing for years because by January 2018, LegalEase's contract was terminated, and we know there was inquiry as to ROSS in that case. Plaintiffs simply knew and waited too long.

THE COURT: How could I resolve a discovery rule

issue under California law on this motion to dismiss against the plaintiffs? Aren't they entitled to the reasonable inferences there?

MR. RAMSEY: Well, again, the only allegation in the complaint as to when they knew is an assertion that in July 2017, there was awareness that this legal research company was carrying out acts on behalf of -- they were carrying out acts -- apologies, LegalEase was carrying out acts in July of 2017 on behalf of this legal research company. And it can also be inferred from the allegations in the complaint there was inquiry and attention to that issue, and by January 2018, plaintiffs knew.

So based on the complaint --

THE COURT: Sure. Sure. Yes. If plaintiff wants to say it's reasonable to infer that that machine learning company was known to be ROSS and we knew that by January 2018, that seems like a reasonable inference I would have to credit, but at the same time if the plaintiff wants to say that it is also reasonable to infer we did not know the identity of ROSS until within two years of when we filed this complaint, that seems like a reasonable inference at this stage of the case and further seems like something -- I'm not sure if you have cited any California cases that says I should go ahead and decide that issue against the plaintiff at this stage.

Why isn't the answer to all of this even if you are right about California law, at best for you I have to defer deciding the statute of limitations issue?

MR. RAMSEY: Right. Well, I have not cited such a case, but I will point out the plaintiffs never actually state when they discovered the alleged tortious interference. So --

THE COURT: Right, but have you cited a case -- sorry. Have you cited a case because they have to do that in order to survive a motion to dismiss?

MR. RAMSEY: We have not, Your Honor. We have not. But, although I think that *Endo-Surgery* says -- this is 35 Cal.4th 797 -- that "plaintiff's attempt to hide behind California's discovery rule is unavailing because that rule applies that requires that plaintiffs specifically plead the time and manner of discovery and the inability to have made earlier discovery despite reasonable due diligence."

So there is some obligation under California in this *Endo-Surgery*, 35 Cal.4th 797. There is California law that there needs to be some allegation in the complaint about when plaintiffs discovered or not discovered the alleged tortious conduct for breach.

THE COURT: All right.

MR. RAMSEY: And again, that silence matters.

But again, the Court need not pause only on the statute of limitations. The claim is insufficiently plead in general as discussed.

THE COURT: Okay. Let's save the rest of your time for rebuttal, and we'll turn it off to plaintiff.

MS. CENDALI: Thank you, Your Honor. This is Dale Cendali from Kirkland on behalf of the plaintiffs.

ROSS's argument and briefs fundamentally misunderstand the applicable pleading requirements, the nature of this case, and key facts.

Starting with a pleading requirements. I think Your Honor summed them up well in the *CAE vs. Gulfstream* case which stated that, "A motion to dismiss may only be granted if, after accepting all well-pleaded allegations in the complaint as true and viewing them in the light most favorable to plaintiff, plaintiff is not entitled to relief."

In fact, this Court elaborated, citing Third Circuit law in *Wilkerson*, that, "The complaint must state enough facts to raise a reasonable expectation that discovery will reveal evidence of each necessary element of each plaintiff's claim."

This standard has been more than met by the detailed complaint before the Court.

Now, the second issue, moving beyond the

misapprehension about the pleading requirements or at least the threshold one, is the nature of the case. As I think Your Honor's request made clear, we're not -- this complaint is about accusing ROSS of surreptitiously, when they were rejected by themselves to do it, getting LegalEase to obtain Westlaw content and use that to create a competing platform.

That is right in their paragraph 35. "Upon information and belief, after LegalEase copied the Westlaw content, it distributed that content to ROSS. ROSS then copied that content and used it to create its platform."

That is replete throughout the entire complaint.

Yes, it may be that what ROSS is actually also making available to its consumers after the creation might also infringe, but what this complaint is focusing on now is what it did to create the platform to begin with. And that is clear in the complaint.

It's also clear, as I think again Your Honor apprehends from its, the Court's questions that we're not in a position to be sitting there with ROSS's engineers and to know exactly what they did once they succeeded in their goal of obtaining the content that it paid LegalEase to provide it. That is why that was pled on information and belief. That material is not publicly available.

But we have more than set forth, you know, plausible facts that said that they came, after being turned

down by West, they ran to LegalEase, that they knew that the contract that LegalEase had with us said that they were not entitled to give material to a competitor.

And, again, this is right in paragraph 3 of the complaint. "Upon information and belief, ROSS intentionally and knowingly induced a third party called LegalEase to breach its contract with West by engaging in unlawful reproduction of plaintiffs' uncopyrighted content and distributed that content en masse to ROSS. ROSS did so after asking for, and being explicitly being denied, access to Westlaw by West on the basis West does not give competitors access to its products. Thus, ROSS induced West -- LegalEase to engage in this unlawful activity knowing that it violated the terms of LegalEase's contract with West."

So at various times in my friend's argument, they argued that, well, there is nothing in there that, that is alleging that ROSS knew what LegalEase was doing or knowing that it had this contract or knowing what it meant. What we -- we pled exactly the opposite.

The other thing that I think is important is not only is it not publicly available, what ROSS's engineers did with the material it received en masse from LegalEase pursuant to its asking them to give it to them, but what is also not publicly available is what their actual interfaced

consumers look like.

At various time in counsel's argument, he said that, well, you know, the ROSS platform is publicly available. We should have somehow, you know, looked at it and reverse engineered it or something to that effect.

Leaving aside that there is zero requirement in copyright law to try to reverse, reverse engineer some public thing to try to figure out what was taken from you to create it, it's also important to note that prior to us filing this complaint, ROSS's terms of service had a provision explicitly prohibiting competitors from using its product.

Only after that we filed the complaint would that provision was tellingly removed. I don't think it really matters because the nature of this complaint, as I said earlier, isn't about the interface or at least at this point isn't about the interface because we haven't had access to what they're giving people.

What this complaint is about that they used Westlaw's copyrighted material to create a competing platform. To be able to get that fast development time and rush out a competing platform.

And to be clear, counsel also repeatedly kept talking about this case as if it were just about the Westlaw key numbering system or the headnotes.

No doubt those are material that or it's part of our copyright. But our copyright also is our registrations, 1-1, pages 2 and 3 of our complaint indicate. And paragraph 2 of our complaint also specifies, is that we also have a copyright in the compilation that we created. It's not just these, you know, standing on its own, headnotes but it's the entire structure, sequence, and organization that we put together to find, analyze, to explain the law.

And the complaint details all the myriad creative choices that went into creating that content. And we have not just one, not just two, but 161 copyright registrations attached to our complaint that all of which under Third Circuit law are entitled to a presumption not just of validity but also a presumption of originality. And that is more than enough to plead a claim of copyright infringement, which we have done.

Now this --

THE COURT: Ms. Cendali, let me ask you. So when you refer to compilation in the answering brief as something you are going to argue is protectable under copyright, that allegation is found in paragraph 2 when you refer to plaintiff's copyrighted content and organization? Is that what I should understand?

MS. CENDALI: That's right. That's the first time that it is mentioned. But throughout the complaint,

Your Honor, we also talk about, I think it starts in, it starts in paragraph 11 and it goes from there. It's also talked about in paragraph 12 which talks about plaintiff's numerous creative choices about how to organize cases, which cases to place in the classification, require substantial investments of time, technological resources, and money over the course of decades.

And then we go on. Paragraph 13 talks about plaintiffs' complex hierarchy, and what is done to make choices as to -- and when we all know that even Your Honor's decision in this case could be probably sliced and diced 100 different ways or maybe not sliced and diced. Maybe it will only be sliced and diced in 60 ways or 200 ways and all sorts of keynotes and headnotes can be created.

And as we plead in the complaint in detail, we took the time to talk about this is all part of our creativity. Paragraph 15 as well talks about how Westlaw includes access to volumes of proprietary material, including such as West headnotes, case summaries, and other Westlaw created content, databases, compilations of case law, et cetera. All of that was pled in our complaint.

And they copied it en masse. This isn't just about the headnotes. That's not what we, what we pled, and that is not what our copyright registrations are limited to.

In fact, as I was, I was saying, you know, if

Your Honor looks at the copyright registrations annexed to the complaint, such as Docket 1-1, page 2, it's the author of compilation, revisions, addition, et cetera.

And that is also true with regard to 1-1, page 3, compilation of previously published case reports, including, but not limited to, opinions and also syllabi in Westlaw paragraphs.

Westlaw is much more than the headnotes and keynotes, and it is certainly much more than the one or two headnotes or keynotes that we put in the complaint, just to give Your Honor an idea of the story.

We certainly were not saying that is the only thing that we are suing on, and I don't think that is a fair reading of the complaint. Rather, we're suing on all of Westlaw, all of our proprietary material which includes our revisions, our compilations, our additions, our analysis, and the hierarchy that we detail at length in our complaint. And that is more than enough.

THE COURT: All right. But what you do in the complaint also at paragraph 1 is create a defined term, "Westlaw content." And I think by your own concession, but I want to make sure I got this correctly, Westlaw content is a term that also encompasses things that you do not contend you have a copyright on. For instance, judicial opinions and statutes.

So I think some of the confusion here and some of the argument that you are facing is you don't say compilation as a defined term in the complaint, although you suggested it in your belief. And you don't really make clear in your complaint your acknowledgment that some of what you are defining as Westlaw content is actually not protectable. So help me with that.

MS. CENDALI: I'm happy to, Your Honor. What we intended to do and said in paragraph 1 of the complaint is that, "Plaintiffs created and nurtured their well-known Westlaw products since inception, including, without limitation, its unique West key number system and West headnotes."

And to be clear, the West key number system (A), it's without limitation, as I point out in the definition of Westlaw content. But the West key number system, which we explained at length in those paragraphs that I referred Your Honor to a few minutes ago with regard to the hierarchy, that is all of the compilation, the creative structure, and organization of Westlaw.

We talk about and repeated paragraphs in this complaint about how they took our structure, sequence, and organization. For example, we say on paragraph 11, "Westlaw makes legal research seamless through its well designed structure, sequence, and organization."

And our point is, well, we don't know, since we're not inside their company, exactly what they took but they took all of our content. And to make it also clear, I realize I didn't completely answer your question, we did not define and did not intend to define Westlaw content as relating to unprotected materials.

The copyright registrations in fact are clear on that. The copyright registrations state on their face, and this is annexed to the complaint in Docket 1-1, page 3 as well, that copyright is not claimed as to any part of the original work prepared by United States Government officer or employee as part of that person's official duties.

That material would not be included in the definition of Westlaw content. It couldn't be because it's not part of our copyright registrations. Rather --

THE COURT: Yes. Where does your complaint make that clear and give the defendant notice of that?

MS. CENDALI: Well, I think it makes it clear by defining Westlaw content for, for what it is, which is its unique West key number system and the West headnotes, without limitation. And I think it also makes it clear because we attached 161 copyright registrations to the complaint that disclaimed that material. We are not claiming copyright on that.

THE COURT: How about the search engines and

algorithms? Are you claiming copyright protection on those?

MS. CENDALI: Yes, the search engines and algorithms are part -- they're part of the compilation. They're part of the hierarchy and the structure of how Westlaw is created and operates. And that is definitely part of our, of our copyright claim, and part of our registration.

THE COURT: And how does your complaint give reasonable and adequate notice to the defendants that that is part of what they are alleged and have to defend against?

MS. CENDALI: Well, if Your Honor doesn't think it gives reasonable notice, then, you know, we submit we would be happy to amend to say that. But I think that we did our best. I hope we succeeded, but we did our best to say that, such as on paragraph 11, editorial enhancements such as West proprietary headnotes, notes of decisions, and the WKNS are just a few examples of the creative and original material authored by West.

And then we spent a lot of time talking especially in paragraph 13, about the different hierarchy and structure that was created. And we annexed the copyright registration that was clear that it covers revisions, compilations and does not cover material created by people like yourself. That's what the registrations reflect, and that is what we thought we did in the

complaint.

But moving on, Your Honor to, if you permit, to so far we've just been talking about the claims of direct copyright infringement. Counsel also, in oral argument, talked about our secondary liability indirect claims.

And there, I think it's important to make a threshold point, which is that they have waived argument with regard to their secondary liability claim.

As Your Honor recently found on, just recently on October 8th of this year, in the *Align Tech* case, where you wrote that you would not evaluate the merits of something that wasn't raised in the opening brief, nowhere in their opening brief did they allege that they would be making arguments about the sufficiency of our indirect infringement claims.

Moving from there, counsel also talked about some argument with regard to copying of the constituents elements and the like. And I think it is important to remember that there is not any kind of requirement as they seem to suggest that we have to somehow parse through all of Westlaw to identify in detail issues with regard to it as they seem to want to do. Well, I don't know. You should be specific as to whether this is, this headnote you think is protectable or that headnote, you know, may be not be as good or something to that, to that effect.

Again, our copyright registrations are clear that the revisions, the compilation are ours and that the government works are not.

But I think that the *Micro Focus* case decided by Judge Andrews a few years ago is a very good case for today's discussion. Because there, the defendants, too, try to argue that, well, the plaintiff, in a software case, you know, failed to identify -- to break down and identify in their copyrighted software what original elements they believe were worthy of copyright protection.

And Judge Andrews dismissed this argument. He said, "The defendant's original element theory is not the correct standard. For purposes of Rule 12(b)(6), a complaint only needs to allege specific original works are the subject of a copyright claim. In the present case, plaintiffs identified the software as the original work in question, and this is sufficient to withstand a motion to dismiss."

Plaintiff also tried to tackle on this motion to dismiss the idea that the headnotes of the West key numbering system is somehow not protected by, by copyright.

Well, the first point is that is something that they can be free to address in discovery but isn't proper for a motion to dismiss because we have a presumption of validity and a presumption of originality. We have 161 of

them, and therefore it's an affirmative defense, as the *Masimo* case talked about, that Your Honor alluded to, for them to try to rebut that presumption.

And as the cases cited in our brief also state, that there is no pleading requirement to plead around an affirmative defense. There is no obligation to do that.

Moreover, I'll also say that the Eighth Circuit in the *West Publishing* case already found that there was a copyright in Westlaw's original expression in the compilation of its, of its material.

And I'll also point out that the Supreme Court recently in the *Georgia vs. Public Resources* case, specifically distinguished between materials that are created by officials empowered to speak with the force of law -- which sadly means, Your Honor, that your writings are not protectable by copyright, at least in your official capacity -- with works that are protectable that are created by private parties.

That distinction was in the majority opinion authored by Justice Roberts. And then Justice Ginsberg, in her dissent, before going into other areas, said, "all agree that headnotes in syllabi for judicial opinions -- both a kind of annotation -- are copyrightable when created by a reporter of decisions."

The bottom line, Your Honor, is that we did our

best. You know, it's hard to put your entire case in a complaint. That is not what Rule 8 is about. But we tried our best to explain why plaintiffs did what they did, what their scheme was, how they were trying to get around the refusal by us to let them use Westlaw, to create a competitive platform. How they knew of that requirement, that limitation. That they went to LegalEase anyway to get it indirectly what they couldn't get directly. And that they used it to rush to market with a competing platform.

And that is what this case is about. We also believe that we plead that they took both directly and indirectly Westlaw content, which we intended to indicate, without limitation, was broad. And we attached the copyright registrations that reflected that which included the fact that related to the compilation, as we also said in paragraph 2, and that it did not relate, as the base of the registrations also say, to government works.

We did our best. We think that we more than satisfied the pleading requirements in Rule 8. And we respectfully request, Your Honor, that it's time now to start discovery so that both sides, we can further develop our affirmative claims, and ROSS is entitled to develop its defenses.

With that, unless there are more questions on the copyright aspect of it, I'd like to hand it over to

my partner, Josh Simmons, to talk about the tortious interference claims.

THE COURT: All right. Let me ask you a few more questions, and then we will turn it over to him.

If, just for the sake of argument, if I don't dismiss the case and I don't require you to amend, you have referenced in discovery what would you envision as the mechanism and how early might it be that you would give greater specificity to the defendant as to what you are contending is protectable under copyright within the subset of Westlaw content? And what it is you are alleging that they copied from that protectable content? How soon would they get more specific understandings of what this case is about there your perspective.

MS. CENDALI: Okay. Let me take it from two respects.

First, in terms of the protectable content, how it would -- was that I think your second question -- how would, more detail about what they took? I believe that is what you were asking, Your Honor.

THE COURT: It is really both sides of it. They have arguments that I need to evaluate that have you not been specific enough about what you contend is protectable content and, further, what you contend that they copied.

So they're telling me I should dismiss the case

or, at worse, make you replead. If I don't go with either of those options but I have concerns that they don't really have enough notice as to what you are alleging, how would you propose in a post-motion to dismiss world that you help alleviate those concerns?

MS. CENDALI: Okay. First, Your Honor, in terms of what they copied, they know better than we do as to what they copied. They know what they sent to LegalEase, they know what they asked LegalEase to get them. They know what they did with the materials they got from LegalEase.

At this stage, without discovery, we can't look behind the curtain and see what it was that they did, but they know better than we do as to what they took from Legal -- from LegalEase, what they copied to create the system.

But what happened is in discovery, we would no doubt be able to find out through discovery as to what communications with LegalEase, what they did with the materials that they got, and how their engineers used that material to create the system. That is something that we plead, and I don't know of a case that says we need to plead more than that.

We certainly don't need to replead, as Judge Andrews' opinion in *Micro Focus* has said, we don't need to parse through our 161 Westlaw registrations to further

identify what is protectable and what isn't because the fact of the matter is, everything that we registered has a presumption of validity. And what we registered was a compilation, the revisions, the headnotes, and we did not register and have a carveout for the government works, the cases themselves. That is already in there.

I don't know of a case that says you are supposed to do more than that. I know of cases such as *LegalEase* that says -- excuse me, such as the *Micro Focus* case that says that. Otherwise, similarly, Your Honor, in the *Vianix vs. Nuance Communications* case in the District of Delaware, the Court found that simply naming the technology that and providing the registrations relating to that is enough to satisfy the pleadings standard of Rule 8.

Now, as a practical matter, what will happen in discovery is they will know doubt attempt to try to argue, well, you have already heard some of that. Well, you know, we think that some of the things that your compilation or your, your headnote, you know, we don't like this headnote, we don't like that headnote. We're going to try to argue that some of those things aren't protectable.

That is part of their affirmative defense and part of their burden to rebut our presumption of validity that the Third Circuit, for example, in the *Ford Motor* case has made clear belongs to us.

And they're free to do that. They're free to have 30(b)(6) depositions of our people. They're free to, you know, to try to rake us over the coals as to, well, I don't know about this headnote, I don't know about that headnote.

Presumably, some of that will be less important depending on what they actually took. What we'll end up doing is no doubt focusing on the material that they ingested and how they used it as opposed to everything at Westlaw. There is not a lot of need to go over everything. Most likely, both sides will be focusing on what they actually used, and that will be a lot of the focus of the analysis.

But the point is right now, we've plead detailed -- we have, we have satisfied the two part test of *Feist*. We plead ownership of a valid copyright and 161 registrations with their validity and presumption. They are free to rebut pit. And we also pled copying by them, both direct and, not challenged until their reply brief, indirect liability.

And we alleged that with specific facts. And counsel is just not correct in saying that we didn't have allegations in there that are specific as to their knowledge and as to their use. We did, and I think the complaint sets it out.

THE COURT: I do want to follow-up a little bit on that. Part of it, what they copied, why shouldn't I understand what you are telling me to be, hey, we're just completely speculating here that the defendant actually used some of our protected material. We really don't know, we just suspect they could not have developed their product so quickly if they didn't. But, you know, let us get to discovery and then we'll find out if our suspicions are correct.

Have you alleged anything more than that?

MS. CENDALI: Well, I think they have, Your Honor. I mean we alleged everything that we can since we can't, we can't go behind the scenes and look at exactly what their engineers are doing. That is why as Your Honor noted, information and belief is, is entirely appropriate in here because of their own conduct.

But I think, as you were suggesting, it is a more than plausible inference if you were denied access, as we pled, to Westlaw and then they hired LegalEase to copy our content, which we pled, and provided to them en masse, I think it's a reasonable, plausible inference that you should go our way that they used it. I mean why would they go through all this if they didn't use it?

I don't know what more I could even say on this, because they're the ones who have all that material. But

it's certainly a very plausible inference. And this happens. Again, I look at the *Vianix* case and other cases that we cited in the briefs, if someone took the material and you alleged plausibly, and they don't deny that they contracted with LegalEase to do this, of course, but they took the material from LegalEase. They may have LegalEase give them enormous material of material, which we pled.

It's reasonable to think that they did that for a reason and that they copied it. And there is nothing more I can know now because I have no access to their system.

THE COURT: All right. Thank you. You mentioned Judge Andrews' *Micro Focus* decision.

There, I think he sets out basically a four-part test to apply when there is a motion to dismiss in an infringement claim like this. Do you agree that that is a reasonable framework for me to follow?

MS. CENDALI: I actually think that that goes beyond the two-part test of the Supreme Court in *Feist*. So I'm not sure if the Supreme Court, to be honest with you, Your Honor, would necessarily agree with that.

That being said, the actual application of that test would fit this case because as I'm looking at Judge Andrews' decision -- and I note, by the way, that Judge Andrews' decision also cites, pardon the expression, the *Dam Things From Denmark vs. Russ Berrie* case, the Third

Circuit case that says that complaint has to assert two essential elements, ownership of copyright and copying by the defendant, done.

But then Judge Andrews goes beyond to say which specific original works of the subject of the copyright claim?

Well, here, the 161 Westlaw works.

Two, ownership of the copyrights of those works.

Well, that is owned by Thomson Reuters. We put that in there.

Three, registration of the works in question with the copyright office.

Check, also done.

And four, by what acts the defendant infringed the copyright.

And that, we also allege. We allege it on information and belief that they copied the material that they illicitly obtained from LegalEase to create their competing platform.

More than that, we would not be privy to at this point. But we detailed the volume of what was passed over. We detailed and discussed how, the information about the algorithms, and we think that that is enough at the pleadings stage to get us into discovery, which I circle back to where we started, Your Honor, which is, you know,

your point that the complaint must state enough facts to state a reasonable expectation that discovery will reveal elements of each necessary element of a plaintiffs claim.

THE COURT: Okay. Thank you. You have answered my questions.

There is about 10 minutes left for plaintiffs; and you can pass it off to your partner, if you wish.

MS. CENDALI: Thank you, Your Honor.

MR. SIMMONS: Good afternoon, Your Honor. This is Joshua Simmons. I'm going address the tortious interference claim.

To kind of a start where Mr. Cendali left off. Contrary to Mr. Ramsey's description, plaintiffs have alleged each element of their tortious interference claim.

As to the existence of a contract, no one disputes that LegalEase is alleged to have entered into a subscription agreement with West. And that is at paragraph 29.

As to ROSS's knowledge of its subscriber agreement, plaintiffs allege that after ROSS requested and was denied access to Westlaw, as Your Honor then noted in your questions, ROSS hired LegalEase to acquire access to and copy plaintiffs' valuable content. That is paragraph 1.

And it did so because it "knew that LegalEase had a valid contract with West." That is paragraph 51.

As to intentionality, the whole complaint frankly is about ROSS's intent and the scheme between these two companies, but specifically ROSS is alleged to have instigated its scheme knowing that it violated the terms of LegalEase's contract with West. That is paragraph 3.

And thus when ROSS caused LegalEase reproduction and distribution, it's alleged to have done so knowing of the subscription agreement and that doing so would breach those terms. That is paragraph 3, also 28 through 29, 51 through 52.

In fact, paragraph 51 specifically alleges that ROSS intentionally instructed LegalEase to act in breach of the contract.

As to the remaining claims, I don't think those are in dispute. Elements, I don't think they're in dispute at this point, you know, as to acting without justification. As we point out, the *Telluride* case makes clear, that is actually ROSS's burden and they can't show it was justified on a motion to dismiss, but in any case, we alleged that it was not justified in paragraphs 3, 30, 31 and 51. And that the damages, ROSS does not dispute paragraph 53 of the complaint and otherwise we discuss are harmed.

Under *Travel Syndication*, which was mentioned earlier, no more than an allegation that ROSS participated in the breach is required. And we have done far more than

that.

Moreover, under *Twombly*, our allegations are taken as true and viewed in the light most favorable to us; so, you know, it's simply wrong to suggest that we were required to do more at this stage given all of that, of that pleading.

THE COURT: Let me stop you there. Going back to, I think you cited paragraph 1. What was the portion of paragraph 1 that you think supports, if you were saying this, the allegation that ROSS knew LegalEase had a contract with West?

MR. SIMMONS: I think for that, I was citing paragraphs 1, 3, and 51. I think the best, I think the best of those quotations is on paragraph 51 which is where we write, "Upon information and belief, ROSS knew that LegalEase had a valid contract with West."

THE COURT: Do you see something helpful to you in paragraph 1 on this point?

MR. SIMMONS: Well, yes, I do in the sense that, you know, we also allege that ROSS explicitly and surreptitiously, after being denied permission, used essentially what is LegalEase to enact and obtain illegal content, and it did so to create the competing platform.

So in terms of knowledge of the contract, it knew that it was denied access. As Your Honor pointed out,

it was denied specifically because it was a competitor. Turned around and hired another company.

And then when one would assume the reason they did that is they knew that they needed someone else to sort of use some subterfuge to get access to the material.

THE COURT: Okay. But where in that is there an allegation that ROSS knew that LegalEase had a contract and that what ROSS was asking LegalEase to do would be a breach of its contract with Westlaw? Where is that alleged in this complaint?

MR. SIMMONS: Sure. So, Your Honor, we alleged that in a couple different places.

Paragraph 3 I think is particularly helpful on this where it says, "ROSS intentionally and knowingly induced a third party called LegalEase to breach its contract with West by engaging in the unlawful reproduction of our copyrighted content and distribution of that content en masse to ROSS."

THE COURT: Well, why is that not just conclusory and parroting the elements of the tortious interference claim?

MR. SIMMONS: So I don't, I don't think it is conclusory because you have to -- because it would be -- that is a statement that would be read in conjunction with the specific allegations of what LegalEase did the breaching

on, which is paragraphs 18 and 19.

And so the point here is that they knew -- you know, there is multiple allegations of knowing of the contract. We talk about what those terms were and what LegalEase did and say they, you know, intended that LegalEase would breach them.

And under the, under the *Travel Syndications* case, that is what you need to plead at the motion to dismiss stage, particularly when all of the inferences have to be taken in favor of us.

THE COURT: All right. Did you want to talk about the statute of limitations?

MR. SIMMONS: Sure, Your Honor. In terms of statute of limitations --

MS. CENDALI: Just to, just to -- not to double team, Your Honor, but I will also point out paragraph 3 specifically said that, "ROSS induced LegalEase to engage in this unlawful activity knowing it violated the terms of LegalEase's contract with West."

THE COURT: Thank you.

MR. SIMMONS: Turning to statute of limitations, the Third Circuit explained in Methel vs. Gendy Co. (phonetic), which is cited in the *Travel Syndication* case I was mentioning. That because statute of limitations affirmative defense, under the law of this Circuit, you

know, you can only raise it on a Rule 12(b)(6) motion if it is apparent on the face of the complaint that it should apply. Otherwise, as in various cases, including Your Honor's, the defense is best left to a later stage of the pleading -- of the proceedings.

I think that is the better course here because there are two different issues that come up with plaintiffs' argument.

The first is the choice of law issue that we didn't hear a lot about this morning, but essentially, you know, because the statute of limitations, the tortious interference claim, rather, is found in Minnesota law, it doesn't, we don't even get into what people knew or when or the rest of it.

When you look at all of the factors, it's clear that Minnesota law applies, and that would mean that Delaware's three-year statute of limitations applies.

That is true when you look at the place where the injury occurred. Your Honor held in *Grynberg vs. Total* that a corporation sustains injuries where it incorporated or where it had offices. That's a tortious interference case. And that is West.

Now, plaintiff said, oh, maybe it was Thomson Reuters but the subscriber agreement is with West, so the only party who they were tortiously interfering with was

the West subscriber agreement, and so the harm is all in Minnesota.

That is all that is necessary there. And because of that, a great weight is placed on where the harm is placed as opposed to in other cases where there might be a harm in multiple locations.

As to the place where the conduct occurred, you know, when it's in only one -- when the harm is only in one state, in other words, because the harm is only in Minnesota, we don't actually give that much weight to where the conduct causing it was created. That is the *Eureka vs. Range* which we cited in our brief.

And so ROSS raises sort of not out of the complaint but just sort of raises, oh, well, the conduct must have occurred in their California office, but that is not in the complaint so that is not an allegation you can decide that on.

Certainly, all inferences have to go our way, but what the complaint does allege is there was an illicit scheme between ROSS and LegalEase, and LegalEase is incorporated in Michigan. So on this factor, *Twombly* would suggest that it is not decidable at this stage, so we can just look to other factors, but in any case it would get little weight.

On the third factor, where the parties are

located, yes, ROSS and West are in California and Minnesota, but they're also incorporated in Minnesota and Delaware. And so based on their location of incorporation, that would mean we would apply the Delaware three-year statute of limitations. Just because ROSS is based in California doesn't mean that factor wouldn't go our way.

THE COURT: Right. Let me interrupt you. You have got two minutes left. I have two more questions for you.

MR. SIMMONS: Okay.

THE COURT: So about Minnesota, is anything alleged by Minnesota in the complaint other than that is where West has its principal place of business. That is, is there anything about the subscriber agreement? Is there anything about what law governs that? Is any of that in the complaint?

MR. SIMMONS: So the subscriber -- so we do reference that West is in Minnesota and then discuss, you know, West in part of the complaint claim. The subscriber agreement was not attached to the complaint, but it is incorporated by reference because it discussed -- its terms are specifically discussed, and the *Runnion* case we cited in our papers makes clear that when you are discussing a document, you can consider it in deciding whether a claim is improperly pleaded.

So from our perspective, that document which we attached to our answering brief at 16-1 can come in. It says it's a West subscriber agreement and that it is based, the law is based in Minnesota.

But Your Honor doesn't need to decide that based on the subscriber agreement alone because there is no question that for tortious interference claim, the harm is sought where West is located. And that is in the complaint at paragraph 7.

THE COURT: All right. And if alternatively I were to decide that California law applied, Mr. Ramsey was citing to I think it was *Endo* decision at end of his earlier argument.

Can I decide the discovery rule issue at this stage consistent with California law? What is your view on that?

MR. SIMMONS: No, you can't, Your Honor. And this at least two reasons, I guess maybe even three reasons for that.

First, Mr. Ramsey cited to a California state court case, and under *Erie*, the pleading rules are actually determined by the federal court of law. And so Your Honor's decision in *TL of Florida vs. Terex* is a better place to look for what needs to be pleaded. And Your Honor specifically noted that you frequently can't decide these

issues on this motion to dismiss and they're not really amenable to that.

I would also point Your Honor to as *Ausikaitis vs. Kiani* which says, "a plaintiff is not required to plead sufficient facts so as to avoid affirmative defense based on the statutes of limitations."

So we didn't need to sort of anticipate that they would bring this claim, certainly not that they would bring it based on California law. And so Your Honor need not reach that issue at all on a motion to dismiss, but the additional reason to not raise it, deal with it now is they didn't raise the discovery rule issue in their opening brief. They just sort of raised the statute of limitations, but they didn't actually discuss the issue of when we discovered this until we got to reply.

And their complaint does not, in any case, say when we discovered it. At best, there were inferences that would be we didn't know about it until we -- right before we sued, certainly within the two-year statute of limitations window.

So I think the better course is either to find that Minnesota law applies, which Your Honor can certainly do, and then this is a moot point or, as Your Honor did in your prior decision in *TL of Florida*, hold off on a statute of limitations claim until ROSS can develop whatever

discovery it thinks it will be able to develop on a statute of limitations affirmative defense.

THE COURT: Okay. Thank you. Plaintiffs' time is up.

We'll turn it back to Mr. Ramsey for his rebuttal. Go ahead, please.

MR. RAMSEY: Thank you, Your Honor. Just a few final points here.

No less than three times, plaintiffs relied on the *Micro Focus* case in terms of the pleadings standard for copyright. One of the requirements there is to allege by what acts the defendants infringed.

Back to my initial comments that there is simply no allegation of any acts of copying by ROSS or LegalEase of any of the protectable material.

Through plaintiffs' discussion just now, we heard about key numbers, we heard about headnotes. Those are defined terms. Now we're hearing about algorithms. I believe I heard the word "database" involved. We heard now for the first time a compilation.

This is the point. There is a lot of material on the table even through the exposition of argument today that there is simply no notice in any factual allegation, direct or from which it can be inferred that any of this material was actually copied into a ROSS product or by ROSS

in general or by LegalEase.

In other words, under the language of ***Micro Focus***, there is simply no alleged acts that constituted the infringement. And there is just no notice to the defendant.

It's a very large body of material that is alleged, broader still after today's argument. The point is plaintiffs needed to specify, to the extent that they can, and certainly more than they have, what it is that is the acts by defendants where one may reasonably infer. Based on some factual allegation, not just boilerplate recitation of a copyright claim, where that material exists.

It is just a fishing expedition with this wide open conclusory assumption that some material must be in there somewhere. But that puts the discovery cart before the pleading horse, and, you know, the complaint frames the scope of the case.

So I think defendants could have done a better job and should have done a better job at the pleading standard to allege what acts are alleged to infringe by defendant and what material could be reasonably referred to have been copied, and that fails completely here.

As to -- you know, and again, plaintiffs cannot take shelter under the information and belief. I refer the court to the "network managing solutions vs. AT&T" case. Only where there is not, and I quote, "some public product

that can be reverse engineered is information and belief appropriate."

Plaintiffs could have done more, should have done more to come up with a specific fact-based theory directly or upon inference and simply have not done so.

Second. On indirect infringement, there is no way. I'm going to take up than point real briefly.

In the opening brief, at page 7, the defendant alleges that all of the indirect infringement allegations in the complaint, that is paragraphs 24 through 29, 32 through 35, and 39 -- pardon, 38 through 39 fail because they're alleged purely on information and belief. No factual content underlying those allegations that there was knowledge, intent, an act to induce or contribute to infringement. It's the same feeling as the direct infringement claim.

And in general in the opening brief, for the same reasons, the defendant alleges and sets forth argument how there is no -- there is not a factual content to establish that ROSS actually copied anything, certainly, the defined material in the complaint, or that LegalEase did. For those two reasons. Those are the modes in which defendant took on the indirect infringement claim, filled it out with some law, but no way was persuaded.

There was a question posed in Ms. Cendali's argument, why would ROSS works with LegalEase if not to

infringe? That was a quote that I believe I heard or something close to that.

This is about what you can infer from the complaint. That is a fair question.

Unfortunately for the plaintiffs, in this case the answer is the only facts in the complaint at all that characterize or have any, any specificity to fill out ROSS's product, what is in it, what may or may not have been copied is the characterization that the product is a "natural language search." So if we're asking the question why would ROSS work with LegalEase if not to infringe, well, the only thing we can infer from the complaint in that sole characterization is that ROSS is working with LegalEase to understand "the natural language of judicial opinions."

If we're talking about reasonable inferences, that is all we have on this pleading. And for that reason, there can be no reasonable inference of copying by ROSS or LegalEase alike.

Finally, I got two minutes left here. I will turn to tortious interference.

In sum, the only way the tortious interference claim is framed in the complaint, and we heard about three paragraphs today. I noted them. Paragraphs 1, 3, and 51. Those are the materials that allegedly form the basis of the tortious interference claim.

In every single one of those, it is simply a boilerplate recitation of the elements of a tortious interference claim. That there was a contract that ROSS knew, that ROSS took some act to interfere with that contract. Just stating a rule of law again.

But again, the pleading standard, as we know under *Twombly* and *Iqbal* and the more particular cases dealing with tortious interference requires something more than that. It has to be -- a claim can't just be a broad-based hunch and theory and speculation that, gosh, ROSS might have been in some universe motivated to interfere with the contract between LegalEase and West. There has to be some factual material.

It may not prove the whole case. That is not what I'm saying. We're not dealing with strawmen or women today. It's just some factual material that is beyond just a recitation of the tortious interference elements, and unfortunately that is all the plaintiffs have alleged.

And for these reasons, plaintiff claims simply, simply are not sufficient to meet the pleading standard in this iteration of the complaint for sure.

THE COURT: All right. Let me ask you just a few more questions.

We've all talked about Judge Andrews' *Micro Focus* test. Do the defendants have a view on whether I can

or should follow his four-part recitation of what it takes for a claim to survive a motion to dismiss?

MR. RAMSEY: I believe it is a fine formulation, and defendant will accept that formulation.

And in particular, candidly, focusing on defendant's best argument today, to make it clear and not hide the proverbial ball, Item 4 is the copyright pleading piece that is really important: By what acts the defendant infringed the copyright. Here, there is nothing in this complaint, and that is a requirement, and we're satisfied adopting that test.

THE COURT: All right. With your respect to your challenge to the indirect infringement allegations, do you contend that in your opening brief you make some argument about the sufficiency of the indirect claim that you did not also make with respect to the direct infringement claim?

MR. RAMSEY: Right. At page 7 of the opening brief, the defendant asserts that all of the allegations in the complaint, paragraphs 24 through 29, 32 through 35, and 38 through 39 fail for failure -- for pleading them on information and belief without a factual underpinning.

Those paragraphs are the bald assertion that ROSS allegedly knew and intended and induced infringement. And we stand on our argument. It is a species of the

more general genus of argument that pervades the entire complaint. There is no factual underpinnings for any of the elements of either copying by ROSS or copying by LegalEase or knowledge, intent, or control for purposes of indirect infringement or for tortious interference. Across the board, that is the flaw, and it was argued in the opening brief.

THE COURT: If I were to require them to file an amended complaint, what is your position on whether they can make use of whatever they seem to have learned in the action against LegalEase? Are you okay with them doing so?

MR. RAMSEY: I think that -- well, I'm not going to concede to that, no. I think that that is not necessary.

The point is they, through that proceeding, they had awareness of the product. They have known about it for years. And it's available.

So I'm not willing to top the door to, you know, free-ranging discovery, but I am open to inquiry into the product that, you know, to be sure there is a link in the briefs from which anybody can access the service, and investigate it, test its inputs, its outputs, its features and functionality, the way that it presents information, the way it functions. And if there is some piece of that that could support a claim, then so be it.

But it's incumbent to meet the pleadings standard, in other words, to meet Factor 4 of Judge Andrews' test, it's incumbent upon the plaintiffs to do that. And they have just not done so now.

THE COURT: If the allegation as I think they have made very clear at least now is that it was at the development stage of your client's product that they're alleging there was copying of their protected content that is not public. It is not discernible through use of the product.

So how else could they plead about that or, you know, get information about it without information and belief allegations followed by discovery?

MR. RAMSEY: I submit it is knowable, at least inferentially from the reverse engineering. Just like in the patent cases. I don't mean to keep referring to patent cases, but in a technical case like this, it's no different. It's true in every patent case, much like the copyright case here, that the plaintiff can't know everything about a product, but in the words of *Network Managing Solution*, where there is "some public product that can be reverse engineered" to shore up at least inferentially some more specific features than, hey, this is a search product, it must be in there somewhere. Well, the same is true here. And we're only asking you to apply in an evenhanded way the

rules on pleading information and belief and the rules about alleging specific acts.

There has to be -- we're not saying prove the whole case. We're realistic. What we're saying, there must be something to put the defendants on notice. This is not just about meeting the pleading standard because it is stated in a case someplace. It is about allowing the defendant to say, ah, we now understand more specific ways of parameters of the theory in the claim. We can formulate a defense, admit or deny, and we'll frame the scope of discovery.

So, more is possible without sitting in the lab at ROSS through the investigation of the product just like other IP cases, and something more is required here. They can do more.

THE COURT: All right. Just one more question. I'm not in any way offended by your reference to patent cases. My question actually relates to that.

In patent cases, we usually have infringement contentions at a fairly early stage in the discovery process. Isn't that part of the answer here? They will be required, if they survive this motion to dismiss, to, in a fairly expeditious manner that we would build into the schedule, serve something like infringement contentions on you that make clear, here is what we contend is protectable

about, you know, our intellectual property, and here is what we contend you copied.

What would be inadequate from your perspective with that approach?

MR. RAMSEY: Well, broadly, there is nothing offensive about such an approach and that sort of mechanism is useful, of course, in any sort of litigation.

But my point is we're not quite there yet, Your Honor. We're still at the pleadings stage. The pleadings rules do require some level of specificity to open the doors of discovery at all.

And plaintiffs have plenty of resources to avail themselves to set the framing of this case beyond we have databases and algorithms and headnotes and key numbers and compilations and something in some way, somehow must be in their product, but we're not, we're not going to frame it in any sort of even, in any inferential way that is useful to frame our case.

There is more work to be done in the complaint, I would submit, Your Honor, before we get to the kind of case management details like that. We're not at that point yet, and the pleadings standards exist for a reason, I would submit.

THE COURT: Okay. Thank you very much. I want to thank all three of you for the very helpful argument.

I'm going to take the motion under advisement. If I need anything further from you, I will let you know. I hope everybody enjoys the weekend. Happy Halloween, I suppose, and stay safe.

Thank you again. We will be in recess.

(The attorneys respond, "Thank you, Your Honor.")

(Telephonic argument ends at 12:48 p.m.)

I hereby certify the foregoing is a true and accurate transcript from my stenographic notes in the proceeding.

/s/ Brian P. Gaffigan
Official Court Reporter
U.S. District Court

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